

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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9 OCTOBER 15, 2002

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12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 KEN MITCHELL, CITIZEN APPOINTEE

15 BENNY WAMPLER, DIRECTOR OF THE DMME & CHAIRMAN

16 BILL HARRIS, PUBLIC MEMBER

DONALD RATLIFF, COAL INDUSTRY REPRESENTATIVE

17 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY

GENERAL'S OFFICE

18 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND ACTING

PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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5 BENNY WAMPLER: We'll go ahead and get started and
6 come to order. Good morning. My name is Benny Wampler. I'm
7 Deputy Director for the Virginia Department of Mines,
8 Minerals and Energy and Chairman of the Gas & Oil Board.
9 I'll ask the members to introduce themselves starting with
10 Mr. Brent.

11 MASON BRENT: My name is Mason Brent. I'm from
12 Richmond and I represent the Gas & Oil Industry.

13 KEN MITCHELL: My name is Ken Mitchell. I'm from
14 Stafford County, Virginia. I am a citizen appointee to the
15 Board.

16 SHARON PIGEON: I'm Sharon Pigeon. I'm with the
17 Office of the Attorney General.

18 BILL HARRIS: And I'm Bill Harris, a public member
19 or citizen member from Wise County, out of Big Stone Gap.

20 BOB WILSON: I'm Bob Wilson. I'm the director of
21 the Division of the Gas & Oil and principal executive to the
22 staff of the Board.

23 BENNY WAMPLER: Thank you very much. The first
24 item on the agenda, actually the first two items, I have a

1 request for a continuance. I'll go ahead and call those just
2 in case there's someone here that wanted to object to the
3 request. The Gas & Oil Board will consider a petition from
4 Columbia Natural Resources, Inc. for pooling of a
5 conventional gas unit identified as CNR 24655. This is
6 docket number VGOB-02-06/18-1038; and the other one is CNR
7 24629, docket number VGOB-02-06/18-1039. We'd ask the
8 parties that wish to address the Board in this matter to come
9 forward.

10 JIM KISER: Mr. Chairman and members of the Board,
11 Jim Kiser on behalf of Columbia Natural Resources. We do not
12 oppose the request for a continuance from Counsel for the
13 parties that we originally sought to force pool. We're still
14 in lease negotiations with them and we surely expect by the
15 next Board hearing to be able to withdraw these applications.

16 BENNY WAMPLER: So, no objections to that, those
17 are continued. The next item on the agenda is a petition
18 from Pocahontas Gas Partnership for pooling of coalbed
19 methane unit under the Middle Ridge I Field Order identified
20 as AV-124, docket number VGOB-02-08/20-1050. We'd ask the
21 parties that wish to address the Board in this matter to come
22 forward at this time.

23 MARK SWARTZ: Mark Swartz and Les Arrington.

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1 BENNY WAMPLER: The record will show there are no
2 others. You may proceed. I'm sorry, here. You have to be
3 fast once I get on a roll. Come right over here and sit
4 down.

5 (Paul Richardson approaches the Board.)

6 BENNY WAMPLER: State your name for the record.

7 PAUL RICHARDSON: Paul Richardson. I'm here on
8 behalf of the Newberry heirs. The first one we have 11.6
9 acres of gas and oil but we don't own the surface rights.

10 BENNY WAMPLER: We'll let Mr. Swartz proceed and
11 then we'll give you an opportunity to ask questions and to
12 put anything on record that you want to put on.

13 MARK SWARTZ: Mr. Chairman, I would request that
14 the Board combine AV-124 with AV-125, which is the next item.
15 The Newberry's are also in that. We've got some common
16 claimants in these two units and obviously they're right next
17 to each other; and I think in the interest of saving time, we
18 can fairly address all the issues if we combine these.

19 BENNY WAMPLER: Do you understand what---?

20 PAUL RICHARDSON: Well, on the second one we own
21 the surface rights, also. We don't own it on this particular
22 one. So, what do we do about that?

23 BENNY WAMPLER: Well, I think you just...put that
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1 information on the record basically. I mean, it really
2 shouldn't interfere with...he'll still have to keep the
3 record straight---.

4 PAUL RICHARDSON: Keep the record straight.

5 BENNY WAMPLER: ---as to which one if we call them
6 both. I think he's just saying for convenience a lot...you
7 have a lot of the common parties involved here. I'll go
8 ahead and call it. The Gas & Oil Board will consider a
9 petition from Pocahontas Gas Partnership for pooling of a
10 coalbed methane unit under the Middle Ridge I Field order
11 identified as AV-125. This is docket number VGOB-02-08/20-
12 1051. All the parties that wish to address the Board in this
13 matter come forward as well.

14 MARK SWARTZ: Mark Swartz and Les Arrington as well
15 on this one.

16 BENNY WAMPLER: If you will, just state your name
17 for the record again.

18 PAUL RICHARDSON: Paul Richardson.

19 BENNY WAMPLER: All right. Thank you. Mr. Swartz,
20 you may proceed.

21 MARK SWARTZ: Could you swear Les for me, please?
22 (Leslie K. Arrington is duly sworn.)

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LESLIE K. ARRINGTON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

- Q. Would you state your name for the record?
- A. Leslie K. Arrington.
- Q. Who's the applicant here?
- A. Pocahontas Gas Partnership.
- Q. And are you appearing on behalf of the applicant?
- A. Yes, I am.
- Q. And who do you work for?
- A. CNX Gas Company.
- Q. And what do you do for them?
- A. Gas Engineer.
- Q. These two units have the same applicant, Pocahontas Gas Partnership, correct?
- A. That's correct.
- Q. Okay. And are both of these units Middle Ridge units?
- A. Yes, they are.
- Q. Okay. And both of the units would

1 contemplate one frac well?

2 A. That's correct.

3 Q. And are the wells in each of these units

4 located in the drilling window?

5 A. Yes.

6 Q. With regard to AV-124, what is the acreage,

7 if you would turn to the plat---

8 A. Yes.

9 Q. ---in this drilling unit?

10 A. 49.05 acres.

11 Q. Okay, and that again is a Middle Ridge unit,

12 correct?

13 A. Uh-huh. Correct.

14 Q. And then if you look at the information

15 pertaining to the proposed well in this unit, again,

16 referring to AV-124, what is the estimated costs with regard

17 to that frac well?

18 A. \$228,589.30, drilled to an estimate depth of

19 2,542 feet.

20 Q. Okay. Has this well been permitted yet?

21 A. If it has been, it's just been very

22 recently.

23 Q. Okay, so as far as you know, it's pending,

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1 but it may not be issued?

2 A. Correct.

3 Q. And, obviously, that would mean it has not
4 been drilled as yet?

5 A. That's correct.

6 Q. Now, again, with regard to AV-124, there are
7 a number of amended exhibits or revised exhibits---?

8 A. Yes.

9 Q. ---is that correct?

10 A. Uh-huh.

11 Q. And have you given those to the Board today?

12 A. Yes, we have.

13 Q. And there's a table of contents for those
14 revisions?

15 A. Yes, it is.

16 Q. Okay. Let's look at Revised Exhibit A, page
17 two, okay. What...would you tell the Board what interest the
18 applicant has acquired and what interest it's seeking to pool
19 here?

20 A. We have a 100% of the coal owner claim to
21 the coalbed methane leased. We have 52.3339% of the oil and
22 gas owners' claim to coalbed methane. We're seeking to pool
23 47.6661% of the oil and gas owners' claim to coalbed methane.

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1 Q. With regard to...also with regard to AV-124,
2 there is...escrow would be required, is that correct?
3 A. Yes, it would be.
4 Q. And there's an Exhibit E that you have
5 attached which lists the owners that are in conflict whose
6 claims require escrow, is that correct?
7 A. That's correct.
8 Q. There are no split agreements with regard to
9 AV-124?
10 A. I don't believe so.
11 Q. Well, go ahead and look.
12 (Leslie K. Arrington reviews the exhibit.)
13 A. Yes, there is.
14 Q. Okay. And that was filed with the original
15 application?
16 A. Yes, it was.
17 Q. Okay. And Swords Creek Land and Pocahontas
18 Gas Partnership have a split agreement?
19 A. Yes.
20 Q. With regard to revised Exhibit B-3 that was
21 filed today, let's take a moment and look at that to
22 determine whether or not there is any escrow requirement for
23 either unknowns or unlocateables.

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1 (Leslie K. Arrington reviews the exhibit.)
2 A. Unknowns are Tract 1A.
3 Q. Okay. And that appears to be...well, and
4 then we've got some...and that appears to be the only tract
5 in which you have unlocateables?
6 A. Yes.
7 Q. So, there's an escrow requirement for people
8 that cannot be located in Tract 1A and then Exhibit E sets
9 forth the conflicting claims with regard to the other tracts?
10 A. That's correct.
11 Q. Have you filed with the Board today a
12 revised affidavit of due diligence?
13 A. Yes...yes, we have.
14 Q. Okay. And have you included with that
15 return receipts and mailings information?
16 A. Yes, we have.
17 Q. And have you also included with that
18 information concerning publication?
19 A. Publication, yes, we have.
20 Q. Okay. Are the folks that you're seeking to
21 pool listed in the amended notice of hearing?
22 A. Yes, they are.
23 Q. And what did you do to notify those people
24

1 of the hearings?

2 A. We mailed by certified mail return receipt
3 requested on 8...it finally ended up August the 21st of 2002.
4 We also published in the Bluefield Daily Telegraph on August
5 the 26th of 2002.

6 Q. With regard to the matter of adding or
7 subtracting claimants, you have filed with the Board an
8 Exhibit B-2 or Revised Exhibit B-2 today?

9 A. Yes, we have.

10 Q. And does that set forth the folks that
11 you're asking the Board to dismiss who were originally named
12 as respondents and does it also give the reason why?

13 A. Yes, it does.

14 Q. Is there anybody that you want to add today?

15 A. No.

16 Q. So, Exhibit B-2 only addresses folks who are
17 to be dismissed either because they have been leased or it
18 has turned out that they're not an owner?

19 A. That's correct.

20 BENNY WAMPLER: Are we to assume that the ones that
21 don't have anything by them---?

22 LESLIE K. ARRINGTON: That's just how the interest
23 passed through those people onto ones we've either---.

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1 BENNY WAMPLER: Okay. For all of the others?

2 LESLIE K. ARRINGTON: Yeah.

3 MARK SWARTZ: So, the answer to your question is if
4 there is nothing by the name, it is an identification issue,
5 not an dismissal issue.

6 Q. With regard to...turning to AV-125 now, Les.
7 There are also revised exhibits that you have filed with the
8 Board today concerning AV-125, is that correct?

9 A. That's correct.

10 Q. Are the folks that you're seeking to pool
11 listed in the amended notice of hearing that was originally
12 noticed for September the 17th?

13 A. Yes.

14 Q. Okay. What did you do to notify those folks
15 of the hearings?

16 A. We mailed by certified mail return receipt
17 requested. That was mailed again on August...basically,
18 ending up August the 21st of 2002. And it was published in
19 the Daily Telegraph on August the 26th of 2002.

20 Q. Okay. With regard to the matter of adding
21 or dismissing people, let's take a look at Exhibit B-2 filed
22 with regard to...today, with regard to AV-125.

23 (Donald Ratliff, Board Member, joins the Board.)

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1 Q. And B-2 lists a number of folks, correct?

2 A. Yes.

3 Q. And is it true that B-2 only addresses

4 dismissing people as opposed to adding people?

5 A. It does.

6 Q. And does B-2 set forth the reason opposite

7 each name that is listed for dismissal purposes, the reason

8 why that person is to be dismissed?

9 A. Yes, it is.

10 Q. And that would be either...in this instance

11 either because you've obtained a lease from them since you

12 filed the original application or you have determined in the

13 course of your due diligence in getting ready for this

14 hearing that they are not an owner, is that correct?

15 A. That's correct.

16 Q. With regard to...again, with regard to AV-

17 125, let's look at Revised Exhibit A, page 2. When you

18 locate that, would you tell the Board what interest you have

19 acquired in this unit and what interest you're seeking to

20 pool?

21 A. Yes, we've acquired 100% of the coal owners'

22 claim to coalbed methane. We've acquired 95.4534% of the oil

23 and gas owners' claim to the coalbed methane. We're seeking

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1 to pool 4.5466% of the oil and gas owners claim to coalbed
2 methane.

3 Q. Let's look at Exhibit B-3 for a moment, the
4 revised one that was filed today. Are there any folks that
5 are listed as respondents for whom you do not have addresses?
6 It looks like tract 3---?

7 A. Tract 3.

8 Q. ---correct?

9 A. Correct.

10 Q. And would that be it?

11 A. Yes.

12 Q. So, with regard to tract 3, there would be a
13 requirement of escrow because of some people who are
14 currently not locateable?

15 A. Right.

16 Q. Okay. And then continuing on in the Revised
17 Exhibits, I see an Exhibit E, correct?

18 A. Yes.

19 Q. And does Exhibit E address the conflicting
20 ownership claims that would require escrow in this unit?

21 A. Yes, it does.

22 Q. And then if we turn to the amended
23 application---. Let's see if we had any split agreements

24

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1 here.

2 (Mr. Swartz reviews the exhibit.)

3 Q. It appears that we did, correct?

4 A. Yes.

5 Q. Again, we have an Exhibit EE dealing with
6 folks who would otherwise be in conflict but for a split
7 agreement and that would be pertaining to tract 1H, as in
8 Henry, Swords Creek Land Partnership and Pocahontas Gas
9 Partnership have resolved their dispute, correct?

10 A. That's correct.

11 Q. With regard to the size of unit 125, the
12 acreage, let's look at the plat.

13 (Mr. Swartz reviews the plat.)

14 Q. We have how many acres in 125?

15 A. 48.91.

16 Q. Okay. And with regard to the well in that
17 unit, what is the estimated cost of that frac well?

18 A. \$229,385.07, drilled to an estimated depth
19 of 2,576 feet.

20 Q. And I take it this well has not been drilled
21 as yet?

22 A. No, it has not.

23 Q. Is there a permit application pending as far
24

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1 as you know?

2 A. Yes, it is pending. Yes.

3 Q. And it may or may not be issued?

4 A. Right.

5 Q. As we stated at the outset, in both of these

6 applications, Pocahontas Gas Partnership is the applicant,

7 correct?

8 A. That's correct.

9 Q. And Pocahontas Gas Partnership has two

10 partners?

11 A. Correct.

12 Q. And those partners are Consolidation Coal

13 Company and Consol Energy, Inc.?

14 A. Yes, it is.

15 Q. Who is the applicant requesting be

16 designated the unit operator?

17 A. Pocahontas Gas Partnership.

18 Q. Is Pocahontas Gas Partnership authorized to

19 do business in the Commonwealth?

20 A. Yes, it is.

21 Q. Has it registered with the Department of

22 Mines, Minerals and Energy and does it have a blanket bond on

23 file?

24

1 A. Yes, it does.

2 Q. Now, these two units are Middle Ridge I
3 units and they are intended to produce coalbed methane gas
4 from a frac well, from wherever the below drainage coal
5 starts including or not including the Jawbone, correct?

6 A. Correct.

7 Q. And down to where?

8 A. To the top of the Red and Green shells.

9 Q. Okay. Obviously, you have leased most of
10 the folks on the coal...well, all of the folks on the coal
11 side and in one unit, nearly all of the oil and gas people,
12 and then the other unit a little more than half of the oil
13 and gas people. Would you tell the Board what the lease
14 terms are that you have offered?

15 A. Yes. Our standard coalbed methane lease is
16 a \$1 per acre per year with a five year paid up term with a
17 one-eighth production bonus payment.

18 Q. Okay. And would you recommend those terms
19 to the Board to be included in any order with regard to the
20 matter of people who might be deemed to have been leased?

21 A. Yes, we would.

22 Q. Is it your opinion that the plan of
23 development that's disclosed by these two applications is a
24

1 reasonable plan to develop coalbed methane from under and
2 within these two Middle Ridge I units?

3 A. Yes, it is.

4 Q. And will the pooling application, if
5 granted, protect all owners and claimants in both units?

6 A. Yes, it will.

7 (Mr. Swartz reviews his notes.)

8 Q. Now, in the...in AV-125, you go to the
9 Exhibit B-3, this is going to...this is a question that's
10 going to come up again as we go through some of the other
11 applications today.

12 BENNY WAMPLER: A revised.

13 MARK SWARTZ: Yeah. If you go to the revised B-3
14 concerning AV-125, go to page one of two, you'll see that we
15 have now listed Shelby Ruth Richardson as the widow and sole
16 heir of Laudy Richardson. When we were last here on some
17 units that we offered testimony with regard to that are going
18 to come back up on the docket, the EE-34, EE-35 and FF-35
19 units, there was a question there as to whether Laudy
20 Richardson had died Intestate or with a Will. I would advise
21 you that on September 3rd of this year, so after the August
22 hearing, that issue surfaced with regard to the three units I
23 just mentioned, a Will was actually recorded in Virginia that

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1 resolved that issue. So, we have a Will. We have a copy of
2 a Will. We've got it with us today if you need to look at
3 it, that Mr. Richardson supplied. And we had continued EE-
4 34, EE-35 and FF-35 to give notice to children who might have
5 taken by Intestacy and obviously now that we have the Will,
6 that turned out to be something that we didn't really need to
7 do with regard to that unit. But that's why those units were
8 continued. So, I thought I would point out to you this title
9 issue that has been resolved that affected these units that
10 also will ultimately have, you know, affect on some other
11 units that we're talking about here.

12 Q. Les, have you, in fact, received a Will in
13 that regard?

14 A. Yes. One was copied from the Courthouse.

15 Q. And...and there is a date stamp, of what
16 date?

17 A. September the 3rd, 2002.

18 Q. And where was it filed?

19 A. Russell County.

20 Q. Okay. And that included...the things that
21 were filed as of that date included a last Will and Testament
22 of Laudy Richardson, correct?

23 A. It did.

24

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1 MARK SWARTZ: That's all I have at this time.

2 BENNY WAMPLER: Questions from members of the

3 Board?

4 (No audible response.)

5 BENNY WAMPLER: Mr. Richardson, do you have any---?

6 PAUL RICHARDSON: What's the number of these two

7 wells that's supposed to be pumped...have you got those yet?

8 BENNY WAMPLER: Are you talking about the permit

9 number?

10 PAUL RICHARDSON: Yeah. Or just the number of the

11 well.

12 BENNY WAMPLER: Well, the well number---.

13 LESLIE K. ARRINGTON: It will be AV-124 and AV-125.

14 BENNY WAMPLER: That's what they go by with the

15 well number. That's on your docket, if you have a copy of

16 that.

17 PAUL RICHARDSON: Now, this new ruling came down on

18 this methane gas and mineral rights. Is that going to have

19 any effect on all of this stuff overall? It was supposed to

20 have came down about two weeks.

21 BENNY WAMPLER: That's a big question you just

22 asked. I can tell you right now it doesn't. You know, will

23 it? I don't know.

24

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1 PAUL RICHARDSON: Okay.

2 BENNY WAMPLER: But it was a ruling that was
3 specific to a particular lease. Mr. Swartz, you may feel
4 free to speak to that. But, I mean, you're the attorney and
5 you've read it, I'm sure. But, you know, that was on a
6 specific...you know, the judge looking at specific deeds and
7 making a decision.

8 MARK SWARTZ: The case that I assume you're
9 referring to is Keary Williams' memorandum decision. I'm not
10 sure that final order has been entered yet.

11 BENNY WAMPLER: I don't think so.

12 MARK SWARTZ: But, in general, the surface owners
13 in that case also owned the oil gas and that was, obviously,
14 a major factor in the outcome. So, if the question is, does
15 Judge Williams' decision send some kind of message that
16 surface owners without owning some mineral in addition to the
17 surface own coalbed methane or oil and gas? My answer...but,
18 you know, it's my opinion, would be no. But I can say for a
19 fact that it was determined by the judge in that case that
20 the surface owners were actually mineral owners of the oil
21 and gas estate.

22 PAUL RICHARDSON: Okay. Now, will this particular
23 plat...two wells be put in escrow or how would they do about
24

1 that? Some has signed and some hasn't.

2 BENNY WAMPLER: Mr. Swartz, or let Les there. You
3 got a copy of the exhibits they have today, didn't you? I
4 think he's just going to refer to those for you which ones
5 were put in escrow.

6 PAUL RICHARDSON: Since I'm out of town, I
7 never---.

8 MARK SWARTZ: Okay, tract...if you'll look at page
9 one of page four of Exhibit E---.

10 BENNY WAMPLER: Of which one, 124?

11 MARK SWARTZ: Yeah. Actually, 125.

12 BENNY WAMPLER: Okay, he has 125 right now. Now,
13 tell him which---.

14 MARK SWARTZ: Which one have you got there? Why
15 don't you get 125?

16 PAUL RICHARDSON: How do I---?

17 MARK SWARTZ: And you need to go sort toward the
18 tail and find something called Exhibit E. You've got B-3,
19 keep going. This is a list of conflicting owners, Exhibit E.

20 PAUL RICHARDSON: Okay.

21 MARK SWARTZ: And you come down to tract 2D.

22 PAUL RICHARDSON: That's ours, right?

23 MARK SWARTZ: Right. And then turn the page. It
24

1 shows you all as having a conflicting claim, okay, with
2 Richardson on the oil and gas site. So, you're in conflict
3 with Stuart Land and Cattle who owns the coal and you guys
4 owns the oil and gas. So, there is going to be escrow with
5 regard to tract 2D for everybody who owns a piece of that
6 either on the coal side or the oil and gas side.

7 PAUL RICHARDSON: So, we'd have to get together
8 with Stuart Land Company?

9 MARK SWARTZ: Stuart, right. And then if you want
10 to hand me 124, I'll aim you in the same direction. Look at
11 Exhibit E, which is the conflicting owners.

12 PAUL RICHARDSON: Okay.

13 MARK SWARTZ: At the beginning here. This one has
14 got a lot more folks. And what you do is you work through
15 here until you find yourself or the Richard...Ruth
16 Richardson. This is eighteen pages. So, it might take us a
17 minute.

18 (Mr. Swartz looks at the exhibit.)

19 MARK SWARTZ: Here we go. We're looking at tract
20 2A. Here you've got Swords Creek owns the coal, okay.

21 PAUL RICHARDSON: Okay.

22 MARK SWARTZ: And you all...then it lists the oil
23 and gas owners who would be in conflict with Swords Creek and
24

1 there's quite a list that continues on and on and on, okay.

2 PAUL RICHARDSON: So, none of them---?

3 MARK SWARTZ: So, in this situation, you would want

4 to talk to Swords Creek to see if you...now, you can

5 work...all the oil and gas owners don't have to agree with

6 Swords Creek for money to come out of escrow. If you agree

7 that your piece can come out and they agree that your piece

8 can come out, then that can come out and the rest of it is

9 withheld. So, all these folks don't have to get together. I

10 mean, obviously, the more the merrier. But, you know, you're

11 not bound by them saying no, okay? I think...is that the

12 only tract that they're in this one?

13 LESLIE K. ARRINGTON: In this...I believe it is.

14 MARK SWARTZ: Okay, let me just look here.

15 (Mr. Swartz reviews the exhibit.)

16 LESLIE K. ARRINGTON: Yes.

17 PAUL RICHARDSON: This is something that come up

18 that we didn't even know we had anything to do with.

19 MARK SWARTZ: Well, that is...that looks like the

20 only tract that you guys are in, 124, I believe. Yeah. But

21 that's...that's who you need to talk to in terms of coal for

22 those two units.

23 PAUL RICHARDSON: That would be all the questions I

24

1 have.

2 BENNY WAMPLER: Okay. Any questions from members
3 of the Board of Mr. Richardson?

4 (No audible response.)

5 BENNY WAMPLER: Do you have anything further, Mr.
6 Swartz?

7 MARK SWARTZ: No, I do not.

8 BENNY WAMPLER: Is there a motion?

9 MASON BRENT: Mr. Chairman, I move that we grant
10 the applications as submitted.

11 BENNY WAMPLER: Is there a second?

12 BILL HARRIS: Second.

13 BENNY WAMPLER: Motion and second. Any further
14 discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying
17 yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. Mr. Ratliff,
22 welcome.

23 DONALD RATLIFF: Thank you.

24

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1 BENNY WAMPLER: I'll get you to state your name for
2 the record before we go into these other case.

3 DONALD RATLIFF: My name is Donald Ratliff.

4 BENNY WAMPLER: You represent coal---?

5 DONALD RATLIFF: The coal industry.

6 BENNY WAMPLER: Thank you. The next item on the
7 agenda the Board will consider is a petition from Pocahontas
8 Gas Partnership for pooling of a coalbed methane unit out of
9 the Oakwood Coalbed Methane Gas Field I order identified as
10 EE-34, docket number VGOB-02-08/20-1055. We'd ask the
11 parties that wish to address the Board in this matter to come
12 forward at this time. You mentioned the three together.

13 MARK SWARTZ: Mark Swartz and Les Arrington. While
14 I'm talking, I'll just remind the Board that we took
15 testimony on EE-34, EE-35 and FF-35 in August and continued
16 it for some notice issues, which we'll come back to.
17 But...so, I would request that we...I think they were
18 combined for that hearing and I'd request that we hear---.

19 BENNY WAMPLER: They were.

20 MARK SWARTZ: ---them together...the loose ends
21 today as well.

22 SAM CAMPBELL: Mr. Chairman, are you going
23 to...excuse me, are you going to consider also item six and
24

1 twenty-seven...or six and seven and---.

2 BENNY WAMPLER: That's what he's requesting to do
3 right now is combine them...combine the three.

4 SAM CAMPBELL: I would like...I don't have any
5 objection to that. I would like to combine twenty-
6 seven...item twenty-seven on the docket at the same time,
7 which is EE-36 (inaudible).

8 COURT REPORTER: Sir, you need to come down here.

9 BENNY WAMPLER: Any objection to that?

10 MARK SWARTZ: Yeah, because I haven't...I'd have to
11 start over with that one. I'm proposing to combine eleven,
12 twelve and twenty-seven, which we would get to relatively
13 soon. But, you know, we've already offered all the testimony
14 with regard to the three that we're talking about right now.
15 I'd have to start over if we did EE-36.

16 SAM CAMPBELL: That's fine.

17 BENNY WAMPLER: Go ahead and state your name for
18 the record because we don't have you on record as speaking,
19 please.

20 SAM CAMPBELL: My name is Sam Campbell. I'm an
21 attorney from Pulaski.

22 BENNY WAMPLER: Okay, I'm going to go ahead and
23 call the other two then without objection. A petition from
24

1 Pocahontas Gas Partnership for a pooling of a coalbed methane
2 unit under the Oakwood Coalbed Methane Gas Field I order
3 identified as EE-35, docket number VGOB-02-08/20-1056; and
4 FF-35, docket number VGOB-02-08/20-1057. We'd ask the
5 parties that wish to address the Board in these three matters
6 to come forward at this time, please.

7 MARK SWARTZ: Mark Swartz and Les Arrington, again.

8 BENNY WAMPLER: Mr. Campbell, are you---?

9 SAM CAMPBELL: Yes, sir.

10 BENNY WAMPLER: Go ahead and state your name.

11 SAM CAMPBELL: I'm Sam Campbell.

12 BENNY WAMPLER: Okay.

13 PAUL RICHARDSON: Paul Richardson.

14 BENNY WAMPLER: All right. Thank you. Mr. Swartz,
15 you may proceed.

16 MARK SWARTZ: Yes. First of all, I would remind
17 the Board that the reason that this was continued from the
18 last hearing, which would be August, was some questions with
19 regard to notice, and, in particular, whether or not Laudy
20 Richardson died Intestate or Testate.

21

22 LESLIE K. ARRINGTON

23 DIRECT EXAMINATION

24

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1 QUESTIONS BY MR. SWARTZ:

2 Q. Les, have you resolved the question of
3 whether or not Laudy Richardson died Testate or Intestate?

4 A. Yes, we have.

5 Q. And how did he pass? Which way?

6 A. Intestate.

7 Q. All right. Testate means with a Will.

8 A. Okay, Testate, I'm sorry.

9 Q. Okay. And how did you...how did you resolve
10 that question?

11 A. The Will was filed in Russell County
12 Courthouse on September the 3rd of 2002.

13 Q. Okay, and among the documents that came from
14 Indiana to be recorded in Russell County, there is actually
15 the Last Will and Testament of Laudy Richardson, right?

16 A. Yes, it was.

17 Q. And there is also with that Will a order of
18 probate of that Will from the State of Indiana as well,
19 correct?

20 A. It was.

21 Q. Okay. So, it turns out that we continued
22 this to notify some people who do not actually have an
23 interest in this unit, is that correct?

24

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1 A. That's correct, we did.

2 Q. And if we look at, just for example, the EE-

3 34, we are now showing in the revised exhibits that were

4 filed today.

5 A. Yes.

6 Q. And let's look at the tract here. We are

7 showing in the revised exhibits and Exhibit B-2 which

8 dismisses Carol Sue Hale, Lonnie Richardson and Barbara

9 Hughsman, correct?

10 A. That's correct.

11 Q. Because it has been determined that they did

12 not take an interest by Intestacy?

13 A. That's correct.

14 Q. Okay. And then we are then showing in

15 Exhibit B-3 with regard to the same tract 3D that the sole

16 heir of Laudy Richardson is Shelby Ruth Richardson?

17 A. Correct.

18 Q. So, we've dealt with that issue?

19 A. Yes, we have.

20 Q. Was there also a mapping question?

21 A. Yes, it was.

22 Q. Did you send someone out into the field to

23 address that mapping issue?

24

1 A. Yes, we have.

2 Q. And have you filed a revised plat today?

3 A. Yes, we have.

4 Q. Okay. And that's item nine in the exhibits
5 that were filed today?

6 A. Yes, it is.

7 Q. And there's also a revised tract
8 identification page because some of the percentages have
9 changed?

10 A. Correct.

11 Q. Okay. Who did the work to go out in the
12 field and check the lines that then caused the map to be
13 slightly revised?

14 A. David Miller.

15 MARK SWARTZ: Okay. David, do you want to come up
16 here for a minute? Maybe just stand behind us. Hopefully,
17 you'll be a cameo. David, did you actually go out and look
18 at the property?

19 COURT REPORTER: David, raise your right hand.

20 BENNY WAMPLER: Do you want to have him sworn?

21 (Witness is duly sworn.)

22

23

DAVID MILLER

24

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1 having been duly sworn, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5 Q. David, you need to state your name for us?

6 A. David Miller.

7 Q. Okay. Who do you work for?

8 A. I do contract work for Pocahontas Gas
9 Partnership and Consol Energy.

10 Q. Did you prepare a revised plat with regard
11 to unit EE-34?

12 A. Yes, I did.

13 Q. What did you do to assist you in determining
14 where the line needed to be?

15 A. After further field review, I found an old
16 rail fence that was pointed out by the Edgar Wilsons, the
17 lady that lives in the house that's probably shown on the
18 map. Also, I found the deed information that supports that
19 fence as being a property line. That's how we came to that
20 conclusion.

21 Q. Did you take some pictures while you were
22 out there?

23 A. Yes, I did.

24

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1 Q. Let me show you the first picture. With
2 reference the plat...the revised plat, okay...I'm going to
3 pass the picture along here. What does that...what area on
4 the revised plat does that picture show?

5 A. It shows...the revised plat shows this
6 property line coming in here as pointed out by the lady that
7 lives in the house and the house shown in that picture.

8 Q. Okay, and is that the house that's right
9 here?

10 A. Yes, it is.

11 Q. Okay. So, basically the photograph that
12 we've handed out to the Board shows the property line coming
13 up here on this tract and then just where it makes the turn
14 to go to the right?

15 A. Right.

16 Q. Okay. And it shows a ditch or a creek
17 there?

18 A. That's correct.

19 Q. Okay. And where is the fence that you
20 identified? Where is the corner of that fence?

21 A. If you see...there's some pink ribbon tied
22 on a tree there. The fence comes into that pink ribbon.
23 It's an old rail fence that's coming into that area there.

24

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1 Q. Okay, and that rail fence is on the ground?
2 I mean, it's something you located?
3 A. Right.
4 Q. Okay.
5 A. That's is correct.
6 Q. And does the rail fence then...is that on
7 this line that I'm circling now?
8 A. Yes.
9 Q. Okay. So, basically this photographs shows
10 a tree with pink ribbons that is the corner for these two
11 lines?
12 A. Yeah, it's what appears to be the lines.
13 Q. Okay.
14 MARK SWARTZ: Les, do you want to go ahead and pass
15 these out as well?
16 (Mr. Arrington passes out the photographs.)
17 Q. David, I want to show you two other pictures
18 and we'll wait while the Board gets their copies here.
19 BENNY WAMPLER: Go ahead and ask your question
20 while we're waiting. How did you determine that was the
21 corner?
22 DAVID MILLER: That corner was pointed out by Mrs.
23 Edgar Wilson that lives in that house there. She has lived
24

1 there for probably forty or fifty years. And the fence was
2 coming into that tree. That's how that was established.

3 Q. Let's look at the picture which has the
4 pickup truck fairly large in it and shows the road going off
5 to the right, okay. All right. Is the corner tree...where
6 is corner tree in relation to this picture?

7 A. If you'll notice, it's more to this side
8 near that---.

9 Q. Little tarp?

10 A. Near the blue tarp.

11 Q. Okay. And this road that goes up the hill,
12 off to the right, is that on the plat?

13 A. Yes.

14 Q. Okay. And where would that be?

15 A. It's shown right here by this broken line
16 coming up between the house and that corner.

17 Q. Okay. And then let me also show you the
18 last picture, and this again we have the corner tree,
19 correct?

20 A. That's correct.

21 Q. And the road again?

22 A. That's correct.

23 Q. Did...and this is what you observed while
24

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1 you were on the ground out there?

2 A. That is correct.

3 Q. Did you also do some platting?

4 A. Yes, I did.

5 Q. Okay. And what...what tracts did you plat

6 and try and locate the lines on the ground in addition to

7 what we've just talked about?

8 A. I used Edgar Wilson's tract 2 and her deed

9 and also I used the Paul E. Richardson deed, Deed Book 357.

10 Q. Did you locate any other corners on the

11 ground?

12 A. Yes, I did, and some others to the west. I

13 located a fence line coming off of that spur. Also, more

14 fence coming on up the spur from that fence corner that we

15 found near the house.

16 Q. Okay. And then did you try to plat deeds

17 surrounding tract 3B to determine or verify the configuration

18 of tract 3B?

19 A. Yes, I did.

20 Q. Okay. And is the shape of tract 3B and the

21 surrounding tracts on the revised plat, in your opinion, a

22 fair and true representation of the size and location of that

23 tract given your investigation in the field and in the

24

1 courthouse?

2 A. Yes, it is.

3 Q. And if we look at the original plat that was
4 filed when this EE-34 was initially filed, the question that
5 arose at the last hearing was whether...where tract 3B was in
6 relation to the road, correct?

7 A. That's correct.

8 Q. And your revised plat and your investigation
9 has allowed you to determine where that is and show those
10 locations?

11 A. That's correct.

12 MARK SWARTZ: That's all I have with regard to
13 mapping.

14 BENNY WAMPLER: Questions from members of the
15 Board?

16 BILL HARRIS: Yes, Mr. Chairman.

17 BENNY WAMPLER: Mr. Harris.

18 BILL HARRIS: There is a 1C and a 3F that's on the
19 new tract that did not appear on the old. I noticed the
20 shape of 1C is a little different. Is there...is that
21 because of the change in 3B or what happens? There's just a
22 little wedge there on the...about the 7:00 o'clock position
23 there. It appears to be a change and a different
24

1 designation, 1C and 3F.

2 DAVID MILLER: I was looking. That was brought
3 about by existing fence lines found on the ground and the
4 survey. We found a survey description for that tract. So,
5 it's shown more accurately on the revised plat.

6 BILL HARRIS: On the revised, okay. All right.
7 Thank you.

8 BENNY WAMPLER: Other questions?

9 MARK SWARTZ: To follow-up with regard to 3F,
10 because it's an interesting question, and the mapping
11 is...appears to be contradictory as you look at that line.
12 It seems to cross itself. David, is the explanation because
13 one set of lines is a surface tract and the other set of
14 lines is a mineral tract?

15 DAVID MILLER: That's correct. The mineral
16 boundaries are shown by one line and the surface lines are
17 shown by another. The person back in the history of the
18 chain of title owned on both sides of the mineral line. So,
19 when he started selling his property, he didn't care where
20 the mineral line was at. He started surveying for surface
21 lines. So, that's what made the...made it look the way that
22 it does.

23 MARK SWARTZ: And that was an issue that was
24

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1 discussed, although you weren't here, Mr. Harris, the last
2 time was that that line appeared to cross over on itself.
3 The explanation really is it's not the same line. One
4 boundary is the surface boundary and one boundary is a
5 mineral boundary and we have to map both.

6 BENNY WAMPLER: Mr. Richardson, do you have any
7 questions?

8 PAUL RICHARDSON: I don't agree with none of this
9 because I was up there yesterday and I never seen no fence.
10 The only way this is going to ever be settled...I've got the
11 deed here. You can read it. It says where this...they've
12 got the ribbon around the tree. The original deed says a
13 sarvis tree. It runs 1943 feet with the creek to the
14 beginning. Well, we know where the beginning is down here
15 on...but if you went back up the creek 1,943 feet, ever where
16 that ends up that's where the corner is going to be. Then
17 you set your transient up the hill and that's...see which
18 side...if the road is on us or the road is on Edgar Wilson.
19 See, she sold this right-of-way three times. I don't know
20 how much money she has collected off of it.

21 (Everyone laughs.)

22 PAUL RICHARDSON: This is getting to be a...and
23 another thing, she doesn't own that right-of-way, you know,

24

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1 from her house down to where our property starts because I've
2 got the deed here. It says my dad never did sign it. So, I
3 don't agree with none of this.

4 BENNY WAMPLER: Well, ask the witness any question
5 you have then about---.

6 PAUL RICHARDSON: Well, how...how did you find that
7 fence with the way it's growed up? How was that---?

8 DAVID MILLER: Mr. Richardson, I walked almost
9 every inch of that fence line. There's a rail fence coming
10 off...you can actually possibly see some of it in the
11 photographs.

12 PAUL RICHARDSON: I'd say the only way this will be
13 settled, we'll just have to survey up that creek to settle it
14 because...see, we could gain two ways this way. The
15 land...did she have timber cut also off our property? See,
16 she just had a free for all up there for the last twenty
17 years. What she wants to do, she does.

18 BENNY WAMPLER: I guess from the Board's
19 standpoint, we're concerned about, obviously, having accurate
20 information identifying the parties that need to be included.

21 PAUL RICHARDSON: So, how would we settle this?

22 BENNY WAMPLER: We're not going to be able to solve
23 private property disputes. We don't do that.

24

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1 PAUL RICHARDSON: So, we'll just have to...if we're
2 not satisfied, we'll just have it surveyed.

3 BENNY WAMPLER: That's what you'd have to do. Yes,
4 sir. Because they've had it surveyed and they brought in
5 their witness here---.

6 PAUL RICHARDSON: They didn't survey it.

7 BENNY WAMPLER: Well, I mean, the gentleman just
8 swore that he did.

9 PAUL RICHARDSON: Well, did you take a transient up
10 there and go through all that and measure---.

11 DAVID MILLER: We didn't...we didn't actually do a
12 survey...a certified survey. We don't do certified surveys
13 for these---.

14 PAUL RICHARDSON: That's not legal.

15 DAVID MILLER: ---hearings. We used a GPS unit
16 that located that fence line and measured from the corner of
17 her house...physically measured from the corner of her house
18 down to that fence line is how we located it on the map. Her
19 deed calls for that fence.

20 PAUL RICHARDSON: No, it don't say on the deed
21 nowhere, right here it is, not a fence.

22 MARK SWARTZ: Why don't we share the deeds with the
23 Board so that we can see where the fence is referred to.

24

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1 Both sets...both of them.

2 PAUL RICHARDSON: If you found something, I
3 didn't---.

4 (Mr. Arrington hands out a copy of the deeds.)

5

6 DIRECT EXAMINATION RESUMES

7 QUESTIONS BY MR. SWARTZ:

8 Q. David, the deed the Mr. Richardson is
9 referring to where his line ought to be easy to find, right,
10 and doesn't pertain to a fence, right?

11 A. That's correct.

12 Q. Is that the deed in Book 357/151.

13 A. That's correct. That's tract 2 in that
14 deed, I believe.

15 Q. Okay. And if we look at the second page of
16 that deed, 357/151, is there some language there that
17 concerned you with regard to whether or not his line was
18 subject to a description of a line in some other deed?

19 A. Yes. If you'll notice tract 2...it says,
20 "Tract 2 is conveyed subject to the exception and reservation
21 of that certain tract or parcel of land conveyed to Chris
22 Horton and Gracie Horton by deed dated May 11, 1926, which is
23 of record in Deed Book 73, Page 589, Russell County, Virginia

24

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1 records."

2 Q. Did you go find that deed?

3 A. Yes, sir, I did.

4 Q. And have you given that to the Board this
5 morning as well?

6 A. Yes, sir, I have.

7 Q. And that...it has a 73 and a 581 circled
8 about a third of the way down.

9 MASON BRENT: He's just passing that now.

10 BENNY WAMPLER: We're just now getting it. You're
11 a little bit ahead of us.

12 MARK SWARTZ: Okay.

13 BENNY WAMPLER: We caught up on the first one.
14 Just wait until we get this one. Okay.

15 Q. On the deed that you went and found then
16 that is referenced in Mr. Richardson's deed is 73/589 and it
17 has a little circle around it about a third of the way down,
18 correct?

19 A. That's correct.

20 Q. And if you come down for the Board members
21 to kind of focus here, you can see I've got some underlying
22 here. Is there some language in this deed 73/589 that was
23 important to you with regard to fence corners and the mapping
24

1 of this unit?

2 A. Yes, sir. The corner began at a corner of
3 tract...lot 3 and 4 and that is that corner that's shown on
4 the exhibit just north of her house. It says, And down the
5 creek to the lower corner of his fence to some birch sprout
6 leaving the creek and up the hill to a black line. So, it
7 came down the creek to that fence that we found. That's what
8 this deed is saying.

9 Q. And that...and that fence then...coming down
10 the creek, where would the starting point have been?

11 A. The starting point would have been here.
12 That's the corner lot---.

13 Q. Near the house?

14 A. Near the house. We come down the creek to
15 the fence that we found and then come up with that fence
16 line.

17 Q. Okay. And that is the reference in the
18 73/589---?

19 A. That is correct.

20 Q. ---that---?

21 A. So, that---.

22 Q. ---was a back reference in the Richardson
23 deed?

24

--

1 A. So, the...and that comes out of the 1900 and
2 whatever feet down the creek.

3 Q. So, you addressed that issue because Mr.
4 Richardson brought it to your attention?

5 A. That is correct.

6 MARK SWARTZ: That's all I have on that issue.

7 BENNY WAMPLER: Questions from members of the
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: Is that new information to you, Mr.
11 Richardson?

12 PAUL RICHARDSON: Yeah, it is. According to my
13 deed, it's even got...you all can look at it. It has got how
14 many poles here and what degree and what angles and
15 everything. This is the deed that was made to my dad back in
16 1936. This Chris Horton, I guess, him and Gracie is the one
17 that signed it. So, where this come from, I don't know.
18 Because this is the deed that was the deed to my dad right
19 here. And it's got...well, you can look at it if you'uns
20 want to.

21 MASON BRENT: We have that right here.

22 BENNY WAMPLER: Yeah, we have a copy of it.

23 PAUL RICHARDSON: That's why I can't...how you're
24

1 going to decide which is which here?

2 MARK SWARTZ: Well, I'm not trying to get you to
3 decide that. I just wanted to---.

4 BENNY WAMPLER: We're not going to.

5 PAUL RICHARDSON: I'll be...you know.

6 MARK SWARTZ: I'm just trying to show the Board
7 that, you know, we listen to what people tell us and we do
8 our due diligence to try and give our best depiction of what
9 these deeds look like on the ground. That we have addressed
10 the issue that Mr. Richardson is raising. We haven't
11 adjudicated it. But this is our due diligence in that
12 regard. That's all. I'm just sharing that with you for that
13 purpose only.

14 BENNY WAMPLER: Can you clarify for us, absent the
15 discussion about who's right and who's wrong, where the line
16 is as far as having the parties properly identified? Do we
17 have the parties properly identified?

18 MARK SWARTZ: Les, have we got everybody in here?

19 LESLIE K. ARRINGTON: Yes, we do.

20 BENNY WAMPLER: Do you have any disagreement with
21 that, that parties---?

22 PAUL RICHARDSON: With what?

23 BENNY WAMPLER: I'm sorry. That the parties are
24

--

1 correctly identified here.

2 PAUL RICHARDSON: Over the land?

3 BENNY WAMPLER: Yes.

4 PAUL RICHARDSON: Yeah, that's okay. But the other

5 stuff I don't agree with.

6 BENNY WAMPLER: I understand. We're not going to

7 try to make you do that either.

8 PAUL RICHARDSON: I just want to go on record,

9 okay, because if we have it surveyed, which we probably will,

10 unless we can come to some kind of agreements.

11 MARK SWARTZ: What we have done...we haven't talked

12 about this. If you'll look at the tract identification for

13 3C.

14 BENNY WAMPLER: In the revised?

15 MARK SWARTZ: In the revised. Once you get down

16 past that point that we just referred to from the deeds, the

17 location of that creek in relation to the road is in dispute.

18 We cannot resolve that dispute. We don't have a call that

19 lets us place that. So, we've got 3C here in conflict. You

20 know, there's a conflicting claim. We've got listing

21 Belcher, right, and we're listing...or the Richardson

22 because, you know, we don't have an answer to that issue. We

23 can find the corner up above, you know, to finish off the

24

1 tract 3B. But when you come down in terms of whether
2 3C...I'm sorry, whether 3A or 3B has that road as it comes
3 south, we've carved out a tract 3C and said title to that is
4 up for grabs. We can't...we don't...we can't place it with
5 the information that's available. So, those people are
6 present in front of you, you know, as respondents or as the
7 people we've got leases from. But we don't know where that
8 line is.

9 PAUL RICHARDSON: Can I say something?

10 BENNY WAMPLER: Yes, sir.

11 PAUL RICHARDSON: Okay, if we go back at the
12 beginning, survey up the creek, that's going to solve that
13 right-of-way that he was just talking about where they put in
14 two drainpipes across the road now, which it used to be one
15 bridge and then it was in the creek. That would show that
16 that road is...between the two drain pipes that is still yet
17 on our property. But from where our property starts, where
18 the county works that road up to Dolly Belcher, my dad never
19 did sign no right-of-way at all. So, county just...they just
20 put the road in because it says they went back over there and
21 checked that out for me in Bristol and said they went back to
22 1926 and my dad has never signed nothing.

23 MARK SWARTZ: The other problem is 670 is a county
24

1 road. So, I mean, we're talking about the minerals under
2 that road.

3 PAUL RICHARDSON: Partial way.

4 MARK SWARTZ: I understand. I'm just saying, you
5 know, the county has been maintaining that road. So...I
6 mean, this is...Mr. Richardson has far, as we can tell, you
7 know, a legitimate concern south of 3B as to the minerals
8 under that county road. And we are not suggesting in any
9 way, shape or form that we've got an answer to that. You
10 know, I think...you know, working something out with his
11 neighbor or survey is...you know, is what he needs to do in
12 that regard because we don't have deed calls for a survey
13 that will allow us to do that. And part of the problem is
14 we're not sure if that creek has been moved. We just don't
15 know.

16 BENNY WAMPLER: And you did confirm earlier that
17 you have added two new tract identifications here in this
18 plat, 1C and 3F?

19 MARK SWARTZ: Right. I'm not sure that 3F wasn't
20 there before, Mr. Chairman. It may not have been. I know 3C
21 is new. No, 3F was not there. You're right.

22 BENNY WAMPLER: Do you have anything further?

23 MARK SWARTZ: No.

24

--

1 PAUL RICHARDSON: I have one more question.
2 BENNY WAMPLER: Yes, sir.
3 PAUL RICHARDSON: Now, this road that goes up that
4 you just put in, is that the end where it is now or do
5 you...going to extend farther up or where does it go from
6 there?
7 MARK SWARTZ: Well, it's shown on the map, Mr.
8 Richardson, it goes quite a ways. If I'm...if I have the
9 right road.
10 PAUL RICHARDSON: Well, it's---.
11 MARK SWARTZ: If I have the right road in mind.
12 Are you talking about this?
13 PAUL RICHARDSON: Is that the new road they put in?
14 MARK SWARTZ: Yeah. This is---.
15 PAUL RICHARDSON: So, it's going all the way to the
16 top of the mountain.
17 MARK SWARTZ: Here's---.
18 PAUL RICHARDSON: Yeah, I know where it's at.
19 MARK SWARTZ: This is this road, okay. And then
20 this---.
21 PAUL RICHARDSON: It goes up there and then goes
22 back to the left.
23 MARK SWARTZ: Right. Right.

24

--

1 PAUL RICHARDSON: That's what I wanted...it'll
2 eventually go all the way up to the top of the mountain?
3 MARK SWARTZ: I don't know. Will it?
4 LESLIE K. ARRINGTON: At this time, it does not.
5 It only accesses as a drip location.
6 PAUL RICHARDSON: Well, I mean, according to your
7 drawing there.
8 MARK SWARTZ: Is that drip location on this---?
9 LESLIE K. ARRINGTON: No. It's on up here. It's
10 on up.
11 MARK SWARTZ: It's on up past the unit boundary
12 though?
13 LESLIE K. ARRINGTON: Yes.
14 MARK SWARTZ: Okay. So, it goes...currently it's up
15 past this line.
16 PAUL RICHARDSON: Okay.
17 LESLIE K. ARRINGTON: Right now I have no further
18 plans for it.
19 PAUL RICHARDSON: Well, I just asked to find out
20 for sure.
21 BENNY WAMPLER: Do you have any other questions for
22 him, Mr. Richardson?
23 PAUL RICHARDSON: That will be all right now.

24

--

1 BENNY WAMPLER: Questions from members of the
2 Board?

3 (No audible response.)

4 BENNY WAMPLER: In this revised exhibit that you
5 handed out, is the information here that has changed that we
6 need to talk about that you haven't?

7 MARK SWARTZ: I don't think so. You know, other
8 than lodging of record, it's pretty self evident.

9 LESLIE K. ARRINGTON: It takes into account that
10 3F, 3---.

11 MARK SWARTZ: 3C.

12 LESLIE K. ARRINGTON: ---C, 3B---.

13 DAVID MILLER: And the percents.

14 LESLIE K. ARRINGTON: And this changes the acreages
15 and percentages.

16 BENNY WAMPLER: Do you want to go over Exhibit A,
17 page two with him?

18

19 LESLIE K. ARRINGTON

20 FURTHER DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. You filed a revised Exhibit A, page two
23 today, is that correct, Les?

24

--

1 A. Yes, we have.

2 Q. And could you summarize for the Board what
3 you...what interest you've obtained and what interest you
4 lack and need to pool?

5 A. Just a second. Yes, we have 100% of the
6 coal owners' coalbed methane claim leased. We have 72.812%
7 of the oil and gas owners' coalbed methane claim. We're
8 seeking to pool 27.188% of the oil and gas owners' claim to
9 coalbed methane.

10 BENNY WAMPLER: Any questions from members of the
11 Board?

12 (No audible response.)

13 BENNY WAMPLER: Is there a motion?

14 MARK SWARTZ: Well, I assume Mr. Campbell is here
15 for a reason.

16 SAM CAMPBELL: Not this one.

17 MARK SWARTZ: Oh, okay. You're not...well, we've
18 got three combined.

19 SAM CAMPBELL: Okay. I'm here for 35.

20 MARK SWARTZ: Okay. Why don't we deal with that
21 because I'm not...I'm not offering testimony with regard to
22 35. I've already done that.

23 SAM CAMPBELL: Okay.

24

1 MASON BRENT: So, before you get started, you have
2 no revisions for 35 or---.

3 MARK SWARTZ: I don't believe we do.

4 MASON BRENT: ---EE-35 or FF-35?

5 MARK SWARTZ: Correct.

6 BENNY WAMPLER: Go ahead.

7 SAM CAMPBELL: Mr. Chairman, my...this is Sam
8 Campbell again. My interest is with docket number six...item
9 number six, unit EE-35, which is the docket number, just
10 going to get the last four numbers, 1056. I'd like to ask
11 Mr. Arrington a few questions, if I may.

12

13

14 CROSS EXAMINATION

15 QUESTIONS BY MR. CAMPBELL:

16 Q. Mr. Arrington, in your exhibit...in the
17 petition, particularly let's look at Exhibit A. This is a
18 unit map. And my particular concern is tract number 4 as
19 identified on that unit map. How are the boundaries and
20 acreages within a unit, in general, determined and
21 specifically for tract number 4?

22 A. Those are platted according to the deed
23 descriptions that are on record. We have a title opinion

24

--

1 run. We trace back the entire chain. It's plotted according
2 to the deed description and fitted to the topograph...
3 topography that we have.

4 Q. Okay. So, it...what you...what you take is
5 a deed description, you put it in a computerized plotting
6 diagram?

7 A. Basically, yeah. Basically, that's what we
8 do.

9 Q. Basically.

10 A. And if there's some sort of question arises,
11 a person such as David Miller would go out in the field if
12 he...if they feel that, you know, we can't get this on the
13 map quite, right they will go to the field and attempt to
14 find evidence in the field and plot it on the map.

15 Q. And if there are overlaps, gaps,
16 inconsistency, what do you do there?

17 A. As you seen just in EE-34, we will generally
18 show those as overlaps.

19 Q. Okay. Well, my concern is this, sub-
20 paragraph seven of the Virginia Administrative Code 25-160-
21 70, states, "The applicant shall file the map, which is
22 certified by a licensed land surveyor or a licensed
23 professional engineer and attested to by the applicant to
24

1 form any existing orders issued by the Board." There's a
2 notation on the top of each of these plats that the
3 properties were taken from maps provided by CNX Land
4 Resources, a subsidiary of CNX Gas and Oil and Pocahontas
5 Gas, dah, dah, and were not surveyed. So, the numbers that
6 you have may or may not be accurate, is that correct?

7 A. It's the best estimate we can give you, yes.

8 Q. Okay. But they are not certified by a
9 surveyor?

10 MARK SWARTZ: They're certified by a licensed
11 professional engineer.

12 Q. Okay, but not based upon a survey?

13 A. Whatever is on record in the Courthouses.

14 Q. Okay. They're based upon calculations?

15 A. Yes.

16 Q. Estimates?

17 A. Estimates, you know, as best as we can map
18 it according to typography.

19 Q. Or, again, sticking with unit EE-35, the
20 cost estimate shows, and this was referred to, I think, in
21 the August meeting by me, it shows a total of \$47,500 for
22 location, title, etc. That seems to be your standard number,
23 is that correct?

24

--

1 A. Yes, sir. We try to...that's our average
2 site cost.

3 Q. Uh-huh.

4 A. And that's what we try to work by.

5 Q. Is this is a map for cost incurred past, or
6 to be incurred future, or some combination of the two?

7 A. It will be a combination of the two and what
8 you would find if, in fact, someone decides to be a
9 participating or carried operator.

10 Q. Uh-huh.

11 A. We are required to file a revised well cost
12 as drilled. We would do that.

13 Q. For six contiguous units, which is the case
14 here for EE-34, 35 and 36 and FF-34, 35 and 36 you've
15 got...that would total \$285,000 in location and title costs
16 for units in which Pocahontas Gas claims at least 80%
17 ownership. How could you incur that...legitimately incur
18 that much cost if you already have 70% of the ownership, a
19 minimum 70% ownership in all those units?

20 A. I'm not quite sure of your question.

21 Q. It may be rhetorical.

22 A. I think what you're asking is two hundred
23 and eighty some dollars cost on title and construction, is
24

1 that what you're---?

2 Q. Well, if location includes...is that...I
3 recall you stating from your prior testimony road---?

4 A. Road construction and site construction,
5 yes.

6 Q. \$285,000?

7 A. Yes, sir. It does.

8 Q. Mr. Arrington, you've testified previously
9 and today that the standard royalty is \$1 per acre per year
10 plus a one-eighth production, is that correct?

11 A. That's correct.

12 Q. Okay, is that a standard pooling royalty or
13 is that the standard royalty that you will offer for
14 consensual leases?

15 A. That's our standard lease offer that we
16 make.

17 Q. Is it possible---?

18 A. We...that's our standard offer.

19 Q. Your company does not make an offer of \$5
20 per acre?

21 A. Yes, sir.

22 Q. It does?

23 A. For oil and gas, coalbed methane.

24

1 Q. For oil, gas and coalbed methane?
2 A. That's correct.
3 Q. Okay. But you're saying it's only a \$1 per
4 acre for coalbed methane?
5 A. That's correct.
6 Q. Which has the greater value to your company?
7 A. Well---.
8 Q. In terms...in terms of---?
9 A. In terms of this unit?
10 Q. Yes.
11 A. In terms of this unit?
12 Q. Yes.
13 A. At this time, the \$1 per acre because we're
14 only---.
15 Q. No, I'm talking about the oil, the gas or
16 the methane?
17 A. We're...at this time in this area we're only
18 producing coalbed methane.
19 Q. Okay. My last question involves the person
20 whom you have listed as owning an interest in the oil and gas
21 in tract number 4 for unit EE-35, which also spills over into
22 EE-36, which is the reason I asked that they be combined, and
23 I'll address that in a moment. Are you satisfied that you
24

--

1 have listed all the owners of...actual potential owners of
2 tract...for tract number 4 in your application for EE-35?

3 A. As best as we can tell. If there is
4 additional evidence that you'd have, we'd certainly review
5 that information and submit the revised exhibits accordingly.

6 SAM CAMPBELL: Mr. Chairman, that's all the
7 questions I have at this time. But I would like to request
8 the Board to table any action on this application, this one
9 alone, for EE-35, docket number six, until the hearing is
10 concluded on number twenty-seven...item twenty-seven on the
11 docket. Those are contiguous parcels in which I'm here
12 representing the parties interested. Tract number 4 that's
13 shown on Exhibit A for EE-35 also goes over into the 36. And
14 there is a method for my madness because the owners of tract
15 4 in each unit would presumably be the same, but they're not,
16 according to the applications.

17 BENNY WAMPLER: You don't have any...an issue with
18 FF-35, is that correct? We also called that number.

19 SAM CAMPBELL: No, sir, none at all.

20 BENNY WAMPLER: Do you have any objection to
21 tabling that, Mr. Swartz?

22 MARK SWARTZ: Not as long as we get a decision when
23 we get to the next one.

24

--

1 BENNY WAMPLER: I just wanted to make sure if there
2 was, we had it on the table. The Board can consider that in
3 any of your motions that it chooses to make. Is there a
4 motion in these cases?

5 (No audible response.)

6 BENNY WAMPLER: Let me say this before that, I
7 haven't heard additional questions and answers. Were there
8 further questions the Board wished to ask?

9 (No audible response.)

10 BENNY WAMPLER: If not, then is there a motion?

11 MASON BRENT: Mr. Chairman, based on the testimony
12 we've heard today and what we heard back in August, I move
13 that we grant the applications ending in docket number 1055,
14 which is our agenda item number five, and docket number 1057,
15 which is our agenda item number seven.

16 KEN MITCHELL: I would second his motion.

17 BENNY WAMPLER: And follow-up with the request to
18 table the 1056?

19 MASON BRENT: Yes, sir.

20 BENNY WAMPLER: Motion and second. Any further
21 discussion?

22 (No audible response.)

23 BENNY WAMPLER: All in favor, signify by saying
24

--

1 yes.

2 (All members signify by saying yes.)

3 BENNY WAMPLER: Opposed, say no.

4 (No audible response.)

5 BENNY WAMPLER: Okay, you have approval. Number

6 six...item number six is tabled. Do you want to take a five

7 minute recess?

8 (Members indicate affirmatively.)

9 BENNY WAMPLER: We'll take a five minute break.

10 (Recess.)

11 BENNY WAMPLER: The next item on the agenda is a

12 petition from Pocahontas Gas Partnership for pooling of a

13 coalbed methane unit under the Oakwood Coalbed Methane Gas

14 Field I order identified as AZ-110, docket number VGOB-02-

15 09/17-1070. Mr. Swartz, I believe you asked to combine some

16 others.

17 MARK SWARTZ: Yes. If you could combine...this is

18 docket number eight, with nine, ten and twenty-six.

19 Actually, these are Middle Ridge units, Mr. Chairman.

20 BENNY WAMPLER: Okay. Is eight Middle Ridge, also?

21 MARK SWARTZ: Yes.

22 BENNY WAMPLER: Correction, that was Middle Ridge I

23 Coalbed Methane Gas Field order. The others that have been

24

1 requested to be combined, I'll go ahead and call them now, is
2 a petition from Pocahontas Gas Partnership for pooling of a
3 coalbed methane unit under Middle Ridge I Coalbed Gas Field
4 order identified as AZ-113, docket number VGOB-02-09/17-1071;
5 BA-110, docket number VGOB-02-09/17-1072...I believe you said
6 twenty-six, is that right?

7 MARK SWARTZ: Twenty---.

8 BENNY WAMPLER: And the other one is BD-116, is
9 that correct?

10 MARK SWARTZ: Yes.

11 BENNY WAMPLER: Okay. Docket number VGOB-02-10/15-
12 1082. If you're following docket numbers, those of you that
13 are here, we just had a request to combine eight, nine, ten
14 and twenty-six. We'd ask the parties that wish to address
15 the Board in these matters to come forward at this time.

16 MARK SWARTZ: Mark Swartz and Les Arrington.

17 BENNY WAMPLER: The record will show there are no
18 others. You may proceed.

19

20 LESLIE K. ARRINGTON

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23 Q. Les, you're still under oath. Do you

24

--

1 understand that?

2 A. Yes.

3 Q. Okay, you need to state your name again.

4 A. Leslie K. Arrington.

5 Q. The applicant on these four units is

6 Pocahontas Gas Partnership, is that correct?

7 A. Yes.

8 Q. And are you here on the applicant's behalf?

9 A. Yes, I am.

10 Q. Who do you work for?

11 A. CNX Gas Company.

12 Q. Did you either prepare these applications

13 and notices and related exhibits or were they prepared...or

14 have them prepared under your supervision and direction?

15 A. Yes.

16 Q. And have you, in fact...are you the fellow

17 that signs the notices and the applications?

18 A. Yes, I am.

19 Q. These four units are all Middle Ridge units,

20 is that correct?

21 A. That's correct.

22 Q. And if I'm not mistaken, they all

23 contemplate one frac well?

24

1 A. Yes.

2 Q. And the frac well in each instance, I
3 believe, is located inside the drilling window?

4 A. Yes, it is.

5 Q. And these frac wells would expect then to
6 produce depending on whether or not the Jawbone is above or
7 below drainage from the Jawbone or the next seam below
8 drainage down to where?

9 A. To the top of the Red and Green including
10 all Pocahontas formation.

11 Q. Okay. The Red and Green shells?

12 A. Yes.

13 Q. Now, Pocahontas Gas Partnership is a
14 Virginia General Partnership, is that correct?

15 A. Yes, it is.

16 Q. Does it have two partners?

17 A. Yes, it does.

18 Q. Are they Consolidation Coal Company and
19 Consol Energy, Inc.?

20 A. Yes, they are.

21 Q. Who is it that the applicant is requesting
22 be designated unit operator by the Board?

23 A. Pocahontas Gas Partnership.

24

1 Q. Is Pocahontas Gas Partnership authorized to
2 do business in the Commonwealth?

3 A. Yes, they are.

4 Q. And Pocahontas Gas Partnership registered
5 with the Department of Mines, Minerals and Energy and does it
6 have a blanket bond on file?

7 A. Yes, it does.

8 Q. Have you listed the names of the
9 respondents, the people that you're seeking to pool in each
10 notice of hearing?

11 A. Yes, we have.

12 Q. Do you want to add anybody at this time?

13 A. I don't believe so.

14 Q. It looks like in one unit we may want to
15 subtract some people, however, correct?

16 A. BA-110.

17 Q. Okay. Let's look at Exhibit B-2, which was
18 filed today to BA-110. Do you see that?

19 A. Yes, we did.

20 Q. Okay, are you requesting that the Board
21 dismiss four respondents from the pooling application
22 pertaining to BA-110?

23 A. Yes, we are.

24

1 Q. And why...what's the reason?

2 A. They were leased.

3 Q. And those folks are named, and the reason

4 for dismissal is stated in Exhibit B-2 that was filed today

5 with regard to BA-110?

6 A. That's correct.

7 Q. And with regard to the other units that have

8 been combined for hearing here, you don't have any further

9 requests to dismiss?

10 A. No, we do not.

11 Q. What did you do to notify the respondents of

12 the hearings?

13 A. Okay. It was mailed by certified

14 mail/return receipt requested. The mail...it was mailed

15 August the 16th of 2002 and published in the Bluefield Daily

16 Telegraph on August the 26th of 2002. That was for AZ-110.

17 Q. Okay.

18 A. Do you want me to go through each one?

19 Q. Go ahead and go through each one in terms of

20 mailing and publication.

21 A. Okay. BD-116, it was mailed September the

22 13th of 2002 and published in the Daily Telegraph on

23 September the 25th of 2002. BA-110 was mailed August the

24

1 16th of 2002 and published in the Daily Telegraph on August
2 the 26th of 2002. And AZ-113, published in the Daily
3 Telegraph on 8/26/02 and I believe it was mailed on August
4 the 13th.

5 Q. August what?

6 A. The 13th.

7 Q. Okay.

8 A. August the 16th, I'm sorry.

9 Q. Have you filed the proofs of publication
10 that you received from the various newspapers with the Board
11 today?

12 A. Yes, we have.

13 Q. And when you published, what did you
14 publish?

15 A. The notice of hearing

16 Q. When you published, what did you publish?

17 A. The notice of hearing and attached location
18 map.

19 Q. Okay. And when you mailed, what did you
20 mail?

21 A. We mailed the notice of hearing and the
22 application.

23 Q. And the exhibits?

24

--

1 A. And attached exhibits, yes.

2 Q. And have you filed records with regard to
3 the mailing in terms of the receipts and a listing of who was
4 mailed to and the dates and whether or not they signed for
5 that with the Board today?

6 A. Yes, we have.

7 Q. Okay. Do you have standard lease terms that
8 you offer to folks when you are attempting to lease coalbed
9 methane?

10 A. Our standard terms are \$1 per acre per year
11 for a coalbed methane lease with a \$5 year paid up term and a
12 one-eighth production royalty payment.

13 Q. And would you request that the Board utilize
14 those terms in any order that it might issue with regard to
15 folks who are deemed to have been leased?

16 A. Yes, we would.

17 Q. Let's...let's take these units now one at a
18 time because there's some information that we need to...that
19 we need to get. Let's start with, we'll just work through
20 this together, Les, AZ-110, okay. This is a Middle Ridge
21 unit, correct?

22 A. Yes, it is.

23 Q. How many acres are in this one?

24

--

1 A. 58.74.

2 Q. Okay. And, again, the plat shows the
3 drilling window and you've got the well just inside of it?

4 A. Yes, it does.

5 Q. There are no revised or amended exhibits
6 pertaining to AZ-110, correct?

7 A. That's correct.

8 Q. If you look at Exhibit A, page two, in the
9 original application, could you tell the Board what...what
10 interest the applicant has acquired and what interest what
11 they're seeking to pool?

12 A. Yes, we've leased 94.9574% of the oil and
13 gas owners' claim to coalbed methane. We've leased 100% of
14 the coal owners' claim to coalbed methane. We're seeking to
15 pool 5.0426% of the oil and gas owners' claim to coalbed
16 methane.

17 Q. Have you provided an estimate with regard to
18 costs for AZ-110?

19 A. Yes, we have. An estimated cost is
20 \$233,484.98, drilled to a depth of 2,465.20 feet. Its permit
21 number is 5150.

22 Q. And when was it drilled?

23 A. February 8 of 2002.

24

1 Q. Continue on here, let's look at Exhibit...
2 let's go back and look at Exhibit B-3 for a moment. In tract
3 1J, it looks like there's a requirement of escrow because
4 we've got some unknown heirs, correct?
5 A. Yes, that's correct.
6 Q. And then if we turn further back in both of
7 the exhibits, we also have an Exhibit E, correct?
8 A. We do.
9 Q. And that...and Exhibit E lists the
10 conflicting claims that would require escrow, is that
11 correct?
12 A. It does.
13 Q. And each of those tracts is set forth in
14 that five page exhibit?
15 A. Yes, it is.
16 Q. Also, looking at the original application,
17 it appears that some of the conflicting claimants have
18 entered into royalty split agreements, is that true?
19 A. Yes, we have.
20 Q. And are they listed on Exhibit EE?
21 A. Yes, they are.
22 Q. And would your request to the Board be that
23 with regard to the folks who have made agreements to split
24

1 royalties, that you not be required to escrow those funds but
2 be allowed to pay them according to their agreements?

3 A. Yes.

4 Q. Okay, let's go to AZ-113. Now, AZ-113 has
5 one revised exhibit, which is Exhibit A, page two, correct?

6 A. Yes.

7 Q. Let's start with that. Could you summarize
8 for the Board the interest that the applicant has acquired
9 and the interests that are sought to be pooled here?

10 A. Yes. The coal, oil and gas owners' claim to
11 coalbed methane, we have leased 62.6746%. We're seeking to
12 pool 37.3254% of the coal, oil and gas owners' claim to
13 coalbed methane.

14 Q. And we're also seeking to pool the same
15 amount because we've leased the same amount with regard to
16 the oil and gas, is that correct?

17 A. That's correct.

18 Q. Continuing on with AZ-113, this Middle Ridge
19 unit is how many acres?

20 A. 58.74.

21 Q. And have you provided a well cost estimate
22 with regard to AZ-113?

23 A. Yes. \$233,801.93, drilled to a depth of
24

1 2,550.40 feet, drilled on September the 17th of 2001.

2 Q. And the permit?

3 A. 4953.

4 Q. Now, looking at Exhibit B-3, which is just
5 ahead of the well cost estimate, it shows that we have some
6 unknown heirs, correct?

7 A. It does.

8 Q. So, in tract 2, there's a requirement of
9 escrow simply by virtue of that, correct?

10 A. That's correct.

11 Q. Continuing on through the exhibits, you've
12 got an Exhibit E, right?

13 A. Yes.

14 Q. And those unknown heirs are actually in
15 conflict. So, there's two reasons why their funds need to be
16 in escrow?

17 A. That's correct.

18 Q. And there is no Exhibit EE, which indicates
19 to me there are no split agreements that we need to take into
20 consider with regard to this particular unit?

21 A. I believe that's correct.

22 Q. Turning to unit BA-110, there are several
23 revised exhibits?

24

--

1 A. Yes, it is.

2 Q. And I assume that that's a result of having
3 leased some people between filing for pooling and today?

4 A. That's correct.

5 Q. Let's turn to Exhibit B-2 in 110, and we
6 talked about this a few moments ago, but Exhibit B-2
7 indicates that since you filed this application, you've
8 leased four people?

9 A. That's correct.

10 Q. Exhibit B-3, I assume, is adjusted to delete
11 them from the list of people that you're seeking to pool?

12 A. Yes, it is.

13 Q. And what is the change then with regard to
14 BA-110...I'm sorry, with regard to Exhibit A, page two, the
15 last revised exhibit?

16 A. We have 100% of the coal owners' claim to
17 coalbed methane leased. We have 95.2296% of the oil and gas
18 owners' claim to coalbed methane leased. We're seeking to
19 pool 4.7704% of the oil and gas owners' claim to coalbed
20 methane.

21 Q. And if we compare that to the original
22 application in Exhibit A, page two, that was prepared on
23 August the 13th that shows the additional leases amount to
24

1 roughly a percent and a half or so---?

2 A. That's correct.

3 Q. ---that you don't need to pool?

4 A. Correct.

5 Q. Also, with regard to BA-110, what size is

6 this unit? How many acres?

7 A. It should be 58.74...58.76.

8 Q. Looking at Exhibit B-3, it looks like you've

9 accounted for everyone and have names and addresses for

10 everybody, is that correct?

11 A. I believe that's correct.

12 Q. So, there's no need for escrow in that

13 respect?

14 A. For unknowns, that's correct.

15 Q. Have you provided the Board with a well cost

16 estimate?

17 A. Yes.

18 Q. What is that?

19 A. \$233,157.19, drilled to a total depth of

20 2,550 feet, drilled January the 14th of 2002, permit number

21 5106.

22 Q. And we've got an Exhibit E, which would list

23 the various tracts that have conflicting ownership claims,

24

1 correct?

2 A. Yes, it does.

3 Q. And that would require...indicate a
4 requirement of escrow for that reason?

5 A. That's correct.

6 Q. And then we also have an Exhibit EE,
7 correct?

8 A. Correct.

9 Q. And what needs to be done in that regard?

10 A. Those owners will be paid according to their
11 lease and royalty split agreements.

12 Q. Okay, so there's no requirement of escrow
13 for those conflicting owners because they've reached an
14 agreement?

15 A. That's correct.

16 Q. Turning to the last one that you combined
17 here, which is BD-116.

18 A. Okay.

19 Q. All right. We have a...we have no revised
20 exhibits that were filed today with regard to that unit, is
21 that correct?

22 A. Correct.

23 Q. However, when it was noticed for today there
24

1 was an amended notice that got filed sometime ago with the
2 Board---?
3 A. Yes.
4 Q. ---correct?
5 A. Uh-huh.
6 Q. And does that amended notice list all of the
7 folks that you're seeking to pool with regard to BD-116?
8 A. Yes, it does.
9 Q. How many acres in BD-116?
10 A. 58.74.
11 Q. And if you'll turn to Exhibit A, page two,
12 and tell the Board what interest you've acquired and what
13 interest you're seeking to pool?
14 A. We have 100% of the coal owners' claim to
15 coalbed methane leased. We're seeking...we have 99.88% of
16 the oil and gas owners' claim to coalbed methane leased.
17 We're seeking to pool 0.12% of the oil and gas owners' claim
18 to coalbed methane.
19 Q. In Exhibit B-3, we've got one address
20 unknown?
21 A. Yes.
22 Q. Presumably, you're ultimately going to be
23 able to find him, I would think?
24

1 A. Well, we would hope. We'll...yeah, he's in
2 jail.

3 Q. He's probably not moving?

4 A. Right.

5 Q. Right, okay. But at least temporarily
6 there's a requirement of escrow because of an unknown
7 address?

8 A. That's correct.

9 Q. With...turning through the exhibits, have
10 you provided the Board with a well cost estimate?

11 A. Yes, we have.

12 Q. And what is that?

13 A. \$234,645.82, to a depth of 2,534.60 feet.
14 It was drilled on May the 27th of 2002, and its permit number
15 was 5300.

16 Q. And we've got an Exhibit E which lists the
17 folks who have conflicting claims in the tract or tracts that
18 they're in that require escrow, is that correct?

19 A. That's correct.

20 Q. And, again, we've got an Exhibit EE and
21 what's the purpose of that exhibit?

22 A. To list the owners that have come to a
23 royalty split agreement and we'll pay according to the
24

1 royalty split agreement and lease terms.

2 Q. And it won't require escrow for them?

3 A. For them.

4 Q. Okay. Is it your opinion that the plan for
5 development that's disclosed by these four applications and
6 the exhibits that accompany them is a reasonable plan to
7 develop the coalbed methane under and within these four
8 units?

9 A. Yes, it is.

10 Q. And given the lease activities that you've
11 been successful on and the folks that are listed as
12 respondents in these applications, is it your opinion that
13 all claimants and owners will have their correlative rights
14 protected if this pooling...if these pooling applications are
15 approved?

16 A. Yes, they will.

17 MARK SWARTZ: That's all I have.

18 BENNY WAMPLER: Questions from members of the
19 Board?

20 MASON BRENT: Mr. Arrington, are you still not able
21 to narrow the range on your reserve estimate?

22 LESLIE K. ARRINGTON: It is actually an estimate,
23 you know. We could probably narrow it, but I certainly
24

--

1 wouldn't feel comfortable in narrowing the range because we
2 do have low producers and then at times we do have better
3 producers. In general, mid to low.

4 MASON BRENT: Is this something you trend? Do you
5 track?

6 LESLIE K. ARRINGTON: We certainly...we look at
7 that and attempt to locate the wells in the better locations,
8 but coalbed methane, you can be anywhere from five or six MCF
9 a day to five hundred. So, you know, and in some areas we'll
10 have low numbers and then you'll have...all of a sudden
11 you'll have one or maybe two wells that will be big
12 producers. So, to say that can we trend it, maybe in
13 relative terms, but to narrow it down any more, no.

14 BENNY WAMPLER: Other questions?

15 (No audible response.)

16 BENNY WAMPLER: You mentioned, I believe it was Mr.
17 Hess, you know he's in jail. But you have an address
18 unknown.

19 LESLIE K. ARRINGTON: Yes, sir. Once they found
20 that he was in jail---.

21 (Mr. Arrington confers with Anita Tester.)

22 LESLIE K. ARRINGTON: Anita advises me that he
23 wasn't allowed to have any correspondence sent to him. So,

24

--

1 we didn't.

2 BENNY WAMPLER: okay.

3 MASON BRENT: Do you know what jail he's in?

4 (Mr. Arrington confers with Anita Tester.)

5 MARK SWARTZ: Was that a yes?

6 LESLIE K. ARRINGTON: We do...we do know what---.

7 MARK SWARTZ: Let's put Anita under oath.

8 (Anita Tester is duly sworn.)

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ANITA TESTER

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name for us.

A. Anita Tester.

Q. Les has been asking you questions and you've been giving him answers with regard to the fellow that may be incarcerated, correct?

A. Uh-huh.

Q. Do you know what jail he's in?

A. We are aware...I couldn't tell you what it is right now, but I do know. I have documentation back at the office.

Q. Okay. But you have learned where he is?

A. Yes.

Q. Will you ultimately be filing with the supplemental order an address for him?

A. Yes.

BENNY WAMPLER: Any other questions from members of the Board?

(No audible response.)

1 BENNY WAMPLER: Just kind of a follow-up, you're
2 the attorney that advised. But, I mean, I would think you'd
3 have an obligation to mail it and if they don't let him see
4 it, that's their problem.

5 LESLIE K. ARRINGTON: We've run into incarcerated
6 people before and had problems with it.

7 ANITA TESTER: Well, there's another issue that he
8 is not allowed to make any money while he's there. I mean,
9 so sending him this probably wouldn't do any good anyway.
10 I'm not sure exactly what the rules are. I was just told
11 that by a layman.

12 MARK SWARTZ: We're going to file his address. So,
13 we're going to mail to him in the future.

14 BENNY WAMPLER: Anything further?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further, Mr.
17 Swartz?

18 MARK SWARTZ: Other than to observe that the
19 reason, unlike some other applicants, that we publish and
20 mail as sort of a belt and suspenders. So, that if I get
21 here and discover these kind of things, at least we've
22 potentially given people notice. And you'll notice that we
23 always do both. But we will get this gentleman on our
24

1 mailing list.

2 BENNY WAMPLER: Is there a motion?

3 KEN MITCHELL: Motion for approval, Mr. Chairman,
4 of the four called out docket items.

5 MASON BRENT: Second.

6 BENNY WAMPLER: Motion and second. Any further
7 discussions?

8 (No audible response.)

9 BENNY WAMPLER: All in favor, signify by saying
10 yes.

11 (All members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. The next item
15 on the agenda is a petition from Pocahontas Gas Partnership
16 for pooling of a coalbed methane unit under the Oakwood
17 Coalbed Methane Gas Field I order identified as DD-36,
18 located in the Maiden Springs New Garden District, docket
19 number VGOB-02-09/17-1073. It's item number eleven on the
20 Board's agenda. The parties that wish to come and address
21 the Board in this matter to come forward at this time.

22 MARK SWARTZ: Mark Swartz and Les Arrington. And I
23 would like to combine this with the next docket item, which
24

1 is twelve, and also with twenty-seven, which is the unit that
2 Mr. Campbell is interested in as well.

3 BENNY WAMPLER: Any objection to that?

4 SAM CAMPBELL: That's fine, sir.

5 BENNY WAMPLER: Okay, I'll go ahead and call the
6 other two. A petition from Pocahontas Gas Partnership for
7 pooling of a coalbed methane unit under the Oakwood Coalbed
8 Methane Gas Field I order identified as FF-30, docket number
9 VGOB-02-09/17-1074. And you said twenty-seven, is that
10 correct?

11 MARK SWARTZ: Yes.

12 BENNY WAMPLER: Twenty-seven is unit EE-36, docket
13 number VGOB-02-10/15-1083. We'd ask the parties that wish to
14 address the Board in these matters to come forward at this
15 time.

16 MARK SWARTZ: Mark Swartz and Les Arrington.

17 SAM CAMPBELL: Sam Campbell, and my concern will be
18 with only docket number twenty-seven, which is...or agenda
19 number twenty-seven, which is docket number ending in 1083.

20 BENNY WAMPLER: Thank you.

21 (Anita Tester distributes exhibits.)

22 (Board members confer among themselves.)

23 BENNY WAMPLER: You know, for efficiency purposes,
24

--

1 just to announce here since they've brought the food, we
2 ordered so we could kind of expedite things, those of you
3 that...I think Equitable is up next after we do these. If
4 you want to go get lunch and be back at 1:00, we'll be...I
5 mean, it's your call. But we'll break after this and
6 reconvene at 1:00 o'clock.

7 JIM KISER: Oh, okay.

8 MARK SWARTZ: Are you continuing anything or what
9 are you doing so I have a feel for it?

10 JIM KISER: Well, we're going to do thirteen,
11 fourteen, fifteen and sixteen and then we'll withdraw
12 seventeen, eighteen and nineteen and be heard on your twenty-
13 three, twenty-four and twenty-five.

14 MARK SWARTZ: Okay.

15 JIM KISER: And then we're going to do twenty and
16 twenty-nine and thirty. But you'll be---.

17 MARK SWARTZ: Okay.

18 JIM KISER: You'll just have three escrows in front
19 of that. If you want to go ahead...if you can get those done
20 while I'm gone---.

21 MARK SWARTZ: Okay, but at least...you've got quite
22 a bit after the break?

23 JIM KISER: Right.

24

--

1 BENNY WAMPLER: I just wanted---.

2 MARK SWARTZ: Okay, great. Right.

3 BENNY WAMPLER: ---people know if you want to get
4 lunch or something depending on where you are on the agenda,
5 that we'll be breaking---.

6 JIM KISER: And that way we can get right back on
7 it.

8 BENNY WAMPLER: Be back and ready to go.

9 MARK SWARTZ: That works.

10 BENNY WAMPLER: Okay, you may proceed.

11 LESLIE K. ARRINGTON

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. SWARTZ:

14 Q. Les, we're going to be talking about DD-36,
15 FF-30 and EE-36, correct?

16 A. That's correct.

17 Q. And the applicant in these three pooling
18 applications is what company?

19 A. Pocahontas Gas Partnership.

20 Q. Is Pocahontas Gas Partnership a Virginia
21 General Partnership?

22 A. Yes, it is.

23 Q. Does it have two partners?

24

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1 A. Yes, it does.

2 Q. Are those partners Consolidation Coal
3 Company and Consol Energy, Inc.?

4 A. Yes, it is.

5 Q. Who is it that the applicant is asking the
6 Board to appoint as the designated operator?

7 A. Pocahontas Gas Partnership.

8 Q. Is Pocahontas Gas Partnership authorized to
9 do business in the Commonwealth?

10 A. Yes, it is.

11 Q. Has it registered with the Department of
12 Mines, Minerals and Energy and does it have a blanket bond on
13 file as required by law?

14 A. Yes, it does.

15 Q. Have you listed in the notices with regard
16 to these three units, the folks that you are seeking to pool?

17 A. Yes, we have.

18 Q. And if I'm looking at the exhibits that were
19 tendered to the Board today and understanding them, it
20 appears to me that there are no revised or amended exhibits
21 that have been given to the Board today, is that correct?

22 A. That's correct.

23 Q. Can I assume then that you don't wish to add
24

--

1 any respondents or dismiss any respondents from any of these
2 applications?

3 A. That's correct.

4 Q. These units are all Oakwood I units, is that
5 correct?

6 A. That's correct.

7 Q. And, in general...not in general, and do
8 each of these applications contemplate one well per unit?

9 A. Yes, it does.

10 Q. And are the locations of these wells all
11 inside the drilling window?

12 A. Yes, they are.

13 Q. The unit DD-36 is an 80 acre unit, is that
14 correct?

15 A. Yes, it is.

16 Q. FF-30 is a larger makeup unit?

17 A. That's correct.

18 Q. How many acres?

19 A. 89.46.

20 Q. And unit EE-36 is how many acres?

21 A. 80 acres.

22 Q. And each of these frac wells would produce
23 from the Tiller on down to the red and green shells, is that
24

1 correct?

2 A. That's correct.

3 Q. What did you do to advise the respondents of
4 these hearings?

5 A. For DD-36, it was mailed August the 16th of
6 2002, published in the Daily Telegraph August the 26th of
7 2002. For EE-36, it was mailed September the 13th of 2002,
8 and published in the Daily Telegraph September the 26th of
9 2002. And FF-30 was mailed August the 16th of 2002, and
10 published in the Daily Telegraph August the 26th of 2002.

11 Q. And have you filed with the Board this
12 morning the proofs of publication that you received from the
13 newspapers?

14 A. Yes, we have.

15 Q. And have you also filed proofs with regard
16 to mailing?

17 A. Yes, we have.

18 Q. Let's turn to DD-36, if you could find
19 Exhibit A, page two and tell the Board the interest that the
20 applicant's acquired and the interest that you're seeking to
21 pool.

22 A. In unit DD-36, we've acquired 100% of the
23 coal owners' claim to coalbed methane and 97.5125% of the oil
24

--

1 and gas owners' claim to coalbed methane. We're seeking to
2 pool 2.4875% of the oil and gas owners' claim to coalbed
3 methane.

4 Q. Continue on here to Exhibit B-3, everyone is
5 accounted for in terms of names and addresses, correct?

6 A. Yes, that's correct.

7 Q. And then the next exhibit, Exhibit C, is
8 that your cost estimate?

9 A. Yes. The estimated cost is \$244,587.57,
10 drilled to a total depth of 2,471.10 feet. It was drilled on
11 November the 7th of 2001. Its permit number is 50.86.

12 Q. And Exhibit E would be an indication that
13 escrow is required for the tracts identified in Exhibit E
14 because of conflicting claims?

15 A. That's correct.

16 Q. And there is no Exhibit EE which would
17 indicate there are no split agreements to account for?

18 A. That's correct.

19 Q. Turning to unit FF-30---.

20 BENNY WAMPLER: Let me just say to the Board, as we
21 go through, if you have any questions at all, let's just get
22 them as we go at any time. I'll just reiterate that since we
23 have some new members. Just go ahead and interrupt.

24

--

1 Q. Les, if you would find Exhibit A, page two,
2 to FF-30 and tell the Board about the interest you've
3 acquired and what you're seeking to pool.

4 A. Yes. We have leased 93.9414% of the coal
5 owners' claim to coalbed methane and 69.3830% of the oil and
6 gas owners' claim to coalbed methane. We're seeking to pool
7 6.0586% of the coal owners' claim to coalbed methane and
8 30.6170% of the oil and gas owners' claim to coalbed methane.

9 Q. Turning to Exhibit B-3, it looks like you
10 have accounted for everyone by name and address, is that
11 correct?

12 A. Yes, we have.

13 Q. Exhibit C is your cost estimate?

14 A. Yes, it is. \$230,789.28. It's permit
15 number is 5275. It was issued on March the 12th of 2002,
16 drilled May 13th of 2002 to a total depth of 2,202.50 feet.

17 Q. Exhibit E indicates that with regard to the
18 tracts listed in that Exhibit, there are conflicting claims
19 that require escrow, correct?

20 A. Yes...yes, it is.

21 Q. And with regard to FF-30, there is
22 apparently...there is apparently a split agreement?

23 A. Yes, it is.

24

--

1 Q. With regard to Tract 1B?

2 A. Yes.

3 Q. And would you request that the Board allow

4 you to pay those folks that are identified in Exhibit EE in

5 accordance with their settlement agreement settling on your

6 claims?

7 A. Yes, I would.

8 Q. With regard to now EE-36, if you could find

9 Exhibit A, page two---.

10 KEN MITCHELL: Mr. Chairman---?

11 BENNY WAMPLER: Mr. Mitchell?

12 KEN MITCHELL: ---could I ask one question back on

13 FF-30?

14 BENNY WAMPLER: Yes, sir.

15 KEN MITCHELL: If I heard the numbers right, and if

16 I didn't, I apologize, but if I heard the numbers right, you

17 drilled the well 300 feet deeper than you had originally

18 anticipated. You had anticipated drilling 1892 and you

19 drilled 2200. Is that because of the contract drilling of

20 310 feet?

21 LESLIE K. ARRINGTON: Well, you'll notice that

22 there was 310 feet of---.

23 KEN MITCHELL: 12", yes, sir.

24

1 LESLIE K. ARRINGTON: ---12" drilling and then 1892
2 feet of---.

3 KEN MITCHELL: ---6½.

4 LESLIE K. ARRINGTON: ---6½. So---.

5 KEN MITCHELL: Okay. So, that...so, that made the
6 difference?

7 LESLIE K. ARRINGTON: Yes.

8 KEN MITCHELL: That answered my question. Thank
9 you, sir.

10 Q. With regard to EE-36 then, Les, if you could
11 turn to Exhibit A, page two, and explain to the Board what
12 interest you've acquired and what interest you're seeking to
13 pool?

14 A. Yes. We have 89.128% of the oil and gas
15 owners' claim to coalbed methane and 98.453% of the coal
16 owners' claim to coalbed methane leased. We're seeking to
17 pool 1.57% of the coal owners' claim to coalbed methane and
18 10.872% of the oil and gas owners' claim to coalbed methane.

19 Q. I'm going to direct your attention to
20 Exhibit A, page two, with regard to the pooling of the coal
21 interest, and I think you left out a digit.

22 A. Yeah. 1.547. I'm sorry.

23 Q. That's correct?

24

--

1 A. Yes.

2 Q. Looking at Exhibit B-3 to the application,
3 there are some folks that you do not currently have addresses
4 for, correct?

5 A. That's right, tract 4.

6 Q. And so that would require escrow for
7 unlocateables?

8 A. Yes.

9 Q. And if we turn...well, if we look at the
10 bottom of these exhibits, what is...there's page one of three
11 is in the center of Exhibit B-3. But then there's a notation
12 off to the right. What's that?

13 A. That's the date that the exhibit was revised
14 and printed.

15 Q. Okay, and what's the date in this instance?

16 A. September the 13th of 2002.

17 BENNY WAMPLER: Would you...since you have several
18 address unknowns, if you'll tell us your due diligence
19 efforts.

20 LESLIE K. ARRINGTON: Yes. They go to the
21 Courthouse and check the phone records, call relatives in an
22 attempt to locate the owners or those individuals and
23 apparently in this case they have failed.

24

--

1 BENNY WAMPLER: Do you have any idea how long
2 they've been working on it as far as length of time is---?
3 LESLIE K. ARRINGTON: I can give you an estimate.
4 (Mr. Arrington confers with David Miller.)
5 LESLIE K. ARRINGTON: Two or three years, we've
6 been working in that area.
7 BENNY WAMPLER: Thank you.
8 Q. Have...with regard to tract 4, have you been
9 able to lease any of the folks in tract 4?
10 A. Yes. I believe we've probably leased...of
11 the Plaster heirs, we've leased approximately 96%, I think,
12 of that group.
13 Q. Okay, and Mr. Campbell is representing some
14 of the Plasters, right?
15 A. Yes, he is. Yes, he is.
16 Q. That are not listed?
17 A. That's correct. And...you know, I might ask
18 if Mr. Campbell would have any idea on some of those
19 addresses unknowns. We would certainly like to get those
20 addresses if he has them.
21 SAM CAMPBELL: I can reply right now if it's all
22 right.
23 BENNY WAMPLER: Sure.

24

--

1 SAM CAMPBELL: One address I've already given to
2 you and counsel and that is for...on page three of three,
3 Rebecca Jane Plaster. She is the daughter of Henry Terrence
4 Plaster and she only has a vested remainder interest. She's
5 not...he's the life tenant. But their address would be the
6 same. The others that you do not now have an address for, I
7 haven't a clue.

8 BENNY WAMPLER: Thank you, Mr. Campbell.

9 SAM CAMPBELL: Yes, sir.

10 Q. Continuing on here in EE-36, if you go to
11 the next exhibit, is your cost estimate correct?

12 A. Yes. Okay, yeah, it's \$229,170.70 to be
13 drilled to an estimated depth of 2,570 feet.

14 Q. And I take it that that has not as yet been
15 drilled?

16 A. I don't believe it has been issued. I can't
17 remember. But I don't think it's...it is pending.

18 Q. So, the permit is pending and the well has
19 not been drilled?

20 A. No, it has not.

21 Q. Continuing on to Exhibit E. Does Exhibit E
22 indicate that in addition to escrowing because of address
23 issues, there is also a requirement with regard to tracts 2A
24

1 and 2B to escrow because of conflicting claims?

2 A. That's correct.

3 Q. And then there is an absence of an Exhibit
4 EE, which indicates we don't have to deal with split
5 agreements, at least at this point?

6 A. Correct.

7 Q. With regard---?

8 A. But we do have the issue of unknowns in
9 tract 4.

10 Q. I understand.

11 A. Okay.

12 Q. But we've already talked about that. With
13 regard to these three units now collectively, is it your
14 opinion that the plan to develop the coalbed methane within
15 these units through a frac well in the drilling window is a
16 reasonable plan to develop that resource for the benefit of
17 the owner and claimants?

18 A. Yes, it is.

19 Q. And between your leasing and the pooling
20 here, the proposed pooling, is it your opinion that the
21 correlative rights of all of the claimants and all of the
22 owners, to the extent they are fee owners, would be
23 protected?

24

--

1 A. Yes, they are.

2 MARK SWARTZ: That's all I have.

3 BENNY WAMPLER: Questions from members of the
4 Board?

5 (No audible response.)

6 BENNY WAMPLER: Mr. Campbell.

7

8

9

10 CROSS EXAMINATION

11 QUESTIONS BY MR. CAMPBELL:

12 Q. Mr. Arrington, tract number 4 for unit EE-36
13 is the same as tract number 4 for unit EE-35, is it not?

14 A. I'll have to look.

15 (Mr. Arrington reviews the documents.)

16 BENNY WAMPLER: And that was number six on the
17 Board's agenda that you're referring to?

18 SAM CAMPBELL: Yes.

19 A. Yes, it is, 4 would be the same.

20 Q. Okay. In the list of owners under oil and
21 gas fee ownership for the application for EE-36, you have
22 added at least one individual and possibly more who are not
23 included in the list of owners for tract number 4 for the

24

--

1 application for EE-35. If they're same tract and they
2 are...would be owned by the same heirs of Emily McGlothlin,
3 how would there be an additional would be owner?

4 A. Just a minute.

5 (Mr. Arrington reviews the documents. Mr.
6 Arrington and Anita Tester confer.)

7 A. For some reason or another, we've left the
8 Benny Boyd off of EE-35. We had him listed but we missed
9 ...we did leave it off of EE-35.

10 Q. All right. So, you believe he also...he
11 should be with EE-35?

12 A. Yes.

13 Q. Mr. Swartz has stated previously that you
14 have found from, what I'm going to call collateral court
15 filings, I think there was a partition suit petition that
16 suggested that Emily McGlothlin had eight children and thus
17 eight heirs. I've submitted a letter to you previously, and
18 I want to correct that now saying there were five. There
19 were, rather, six natural children. There were a total of
20 three others who were reared by Emily McGlothlin but were
21 not...were not heirs or were not children, and thus could not
22 be heirs. Have you done...has your company done anything
23 further to check into that or do you stand by the original
24

1 number of eight?

2 A. We...the original number of eight and that
3 is according to the documents we came up with from the court
4 records.

5 Q. Okay, and these...but these are collateral
6 documents and that they are not Wills, list of heirs or court
7 filings of descent, is that correct?

8 A. I'd have to let Mark look and see what all
9 we used there.

10 MARK SWARTZ: Well, we used Wills and Lists of
11 Heirs.

12 LESLIE K. ARRINGTON: Okay.

13 SAM CAMPBELL: Can I...can I look at them?

14 MARK SWARTZ: Well, what we talked about when we
15 were last here was a Partition action---.

16 SAM CAMPBELL: Right.

17 MARK SWARTZ: ---that listed a spouse and eight
18 siblings. So, I would regard that as something of record---.

19 SAM CAMPBELL: Oh, I agree.

20 MARK SWARTZ: ---in this...in this chain. And then
21 we had...I know we referred to a list of heirs when we were
22 last here, which was...which indicates eight children and
23 that was a list of heirs in the Circuit Court of Tazewell

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1 Count, the Estate of A. L. McGlothlin, deceased. You know,
2 Mr. Campbell, it has been a while. But---.

3 SAM CAMPBELL: I understand.

4 MARK SWARTZ: ---I don't...I think there was a deed
5 as well. The primary things that we were concerned about was
6 the list of heirs that I just referred to in the Partition
7 case.

8 SAM CAMPBELL: And a later Partition case.

9 MARK SWARTZ: And that's...I mean, that's where
10 we're getting those numbers from. And I understand what
11 you're telling us.

12 SAM CAMPBELL: Okay.

13 MARK SWARTZ: But, you know, the documents that we
14 have don't distinguish between children raised and natural
15 children. You know, I'm not arguing with that.

16 SAM CAMPBELL: Understood. But you recognize that
17 an era that we're dealing in of a century ago, there may not
18 have been that distinction?

19 MARK SWARTZ: I mean, there are all sorts of---.

20 SAM CAMPBELL: Sure.

21 MARK SWARTZ: ---problems that get carried
22 forward---.

23 SAM CAMPBELL: Okay.

24

1 MARK SWARTZ: You know, this may not have been true
2 when it occurred, but, you know, it's all I've got to work
3 with, you know, in terms of the record.

4 SAM CAMPBELL: I understand that. I understand
5 that. But if...if it is erroneous and what we have given you
6 is correct, then that affects the percentage of ownership
7 that Pocahontas Gas group claims to own, is that correct,
8 because it changes the denom...initial denominator?

9 MARK SWARTZ: No.

10 SAM CAMPBELL: How can it not?

11 MARK SWARTZ: All we're looking at is a working
12 interest and not a royalty interest.

13 SAM CAMPBELL: I understand that.

14 MARK SWARTZ: Well, it wouldn't...it wouldn't
15 increase or decrease the outstanding royalty interest vis a
16 vie my client. I mean, that twelve and a half percent is
17 still out there. It's just who owns it.

18 SAM CAMPBELL: Okay. But who owns it determines
19 who gets the royalty?

20 MARK SWARTZ: Right.

21 SAM CAMPBELL: Right.

22 MARK SWARTZ: And, you know, if you came to us with
23 releases from the heirs of these folks, we would honor that.

24

--

1 SAM CAMPBELL: I understand.

2 MARK SWARTZ: But if we cut them out unilaterally
3 of the equation, you know, they might well be here
4 complaining and taking the other side of the story saying,
5 you know, we're heirs.

6 SAM CAMPBELL: Right.

7 MARK SWARTZ: And to be safe...I mean, if it
8 appears to us that people have claims, you need to have them
9 here at the table.

10 SAM CAMPBELL: Not questioning that they should be
11 notified. I'm questioning, though, if...if your assumption,
12 if you'll grant me that word for a moment, that the initial
13 denominator is eight rather than six---.

14 MARK SWARTZ: Right.

15 SAM CAMPBELL: ---that changes the percentage of
16 ownership all down the line, does it not?

17 MARK SWARTZ: Of the royalty owners, not of the
18 applicant.

19 SAM CAMPBELL: Correct. All down the line. But it
20 also changes what---.

21 MARK SWARTZ: Well, only in tract 4.

22 SAM CAMPBELL: ---the applicant says he has---.

23 MARK SWARTZ: No. Only in tract 4.

24

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1 SAM CAMPBELL: Correct. Only in tract 4, correct.

2 MARK SWARTZ: And it changes the percentage leased
3 not but not the ownership of the applicant.

4 SAM CAMPBELL: It affects the ownership of the
5 applicant if the applicant has leases or ownership from the
6 two who are contended not to be true heirs?

7 MARK SWARTZ: Only if the folks who are determined
8 to be heirs participate in the well and write checks, which
9 they have a right to do anyway.

10 SAM CAMPBELL: Sure.

11 MARK SWARTZ: The only impact on the applicant's
12 ownership is if...since the applicant claims no royalty
13 interest, so that's 12½ of a 100% is always out there that
14 we're going to pay to somebody whether it's the escrow agent
15 or people.

16 SAM CAMPBELL: Uh-huh.

17 MARK SWARTZ: Now, there's an 80...there's 87½%
18 working interest. If no one participates in this well by
19 writing a check and saying we want to be a partner, that 87½%
20 is the interest of the applicant.

21 SAM CAMPBELL: Understood.

22 MARK SWARTZ: If people participate because they're
23 given an option, that working interest can decline.

24

1 SAM CAMPBELL: Understood.

2 MARK SWARTZ: So, you know, unless people
3 participate in this well, the applicant is going to have 87½%
4 working interest in this well.

5 SAM CAMPBELL: okay.

6 MARK SWARTZ: Regardless of title determination.

7 SAM CAMPBELL: Right. But unless something further
8 is done, the numbers that you have in your Exhibit B-3 will
9 be the numbers that are...well, yeah, B-3, will be the
10 numbers that are used in determining the royalty that you're
11 going to pay---?

12 MARK SWARTZ: Well, the problem---.

13 SAM CAMPBELL: ---and determining the buy in?

14 MARK SWARTZ: Okay, the problem is because of the
15 conflicting claim issue that you're raising, even if this was
16 a fee interest, which I suspect it is, it's got to be
17 escrowed for your concern to be addressed.

18 SAM CAMPBELL: Uh-huh.

19 MARK SWARTZ: Okay, and your folks are going to
20 have an opportunity to make an election---.

21 SAM CAMPBELL: Right.

22 MARK SWARTZ: ---predicated upon your argument.

23 SAM CAMPBELL: Okay.

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1 MARK SWARTZ: So, if...you know, if they pony up
2 the percentage that we've got, they're in the unit. If you
3 ultimately prevail, you're going to get a bigger interest vis
4 a vie other folks.

5 SAM CAMPBELL: I understand that. I understand
6 that. The point I'm making is to one, that apparently Mr.
7 Arrington has already mentioned, somebody has possibly...was
8 not notified for EE-35 apparently.

9 MARK SWARTZ: It looks like it.

10 SAM CAMPBELL: Apparently.

11 MARK SWARTZ: Yeah.

12 SAM CAMPBELL: And that's what I wanted to know.
13 If he was...if he was missed from 35 or added to 36 or vice
14 versa. And the second point is that there is a dispute of
15 ownership in that who are the heirs and who are the current
16 owners.

17 MARK SWARTZ: We don't...we acknowledge that
18 there's that dispute.

19 SAM CAMPBELL: Okay. But that...that dispute also
20 affects the percentage at...that the applicant claims to now
21 have under lease.

22 MARK SWARTZ: Well, it's minuscule. I mean, we
23 have---.

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1 SAM CAMPBELL: Well, yeah, it may be.

2 MARK SWARTZ: ---96% of your family leased and they
3 only have...they have less than 10% of the unit and we have
4 96% leased. So, we have...there's four-tenths of a percent
5 out there in the argument that you and I are having. Now,
6 I'm not saying we can just ignore that. But to the extent
7 that the interest represented in A...Exhibit A, page two,
8 would change, it would be less than a half a percent. And,
9 you know, we're showing that we have, you know, 98% of the
10 coal. So, that would go down by a half a percent maybe and
11 we're showing 89% of the oil and gas and that would go down
12 about a half a percent maybe. So, I guess, yeah you're
13 right, but in order of magnitude, if your suggestion is that
14 Consol or the applicant here has some economic stake in the
15 outcome of this argument, my answer to that is we don't. The
16 only effect that it could have is if people want to
17 participate, which they always have an opportunity to do and
18 we have no control over that.

19 SAM CAMPBELL: Well, I think there is an economic
20 stake. But you make the argument that the interest...the
21 interest here is what we're talking about is diminimus and
22 it may well be. But neither the statute nor the regulations
23 say that you can ignore diminimus---.

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1 MARK SWARTZ: And we're not.

2 SAM CAMPBELL: ---inaccuracy or inconsistencies.

3 MARK SWARTZ: And we're not.

4 SAM CAMPBELL: I have...I have no further

5 questions. Obviously, I would ask the Board to deny the

6 applications for units EE-35 and EE-36, these are docket

7 numbers ending in 1056 and 1083, because the applicant has

8 not submitted consistent or accurate information in these

9 applications as to the owners of the coalbed methane interest

10 in this case that's required by the Code. I don't think it

11 has been done here. Thank you. That's all I have.

12 BENNY WAMPLER: Do you have information that you

13 believe they should have included? I know you pointed out

14 the one inconsistency. They acknowledge that, on Benny Boyd.

15 SAM CAMPBELL: Correct. My information is all the

16 people who would know or have corroborating information are

17 dead, except my mother who is 8...almost 82. She is firmly

18 convinced that there were only six children that she knew and

19 that two others were raised. Other than that, honestly, I

20 have nothing else. No, sir. I have no...we can't find

21 anybody or anything else---.

22 BENNY WAMPLER: I just wanted...I wanted to clarify

23 that it went to the issues we had already on record. There's

24

1 no other issues that you're raising that you haven't---?

2 SAM CAMPBELL: No.

3 BENNY WAMPLER: ---asked questions about?

4 SAM CAMPBELL: No, sir.

5 BENNY WAMPLER: Okay. Other questions from members
6 of the Board?

7 DONALD RATLIFF: I guess you confused me a little
8 bit. In tract 4, the portion that is owned by the heirship,
9 whether it's six or eight, it just means the dividing that
10 piece of the pie by six or eight but the interest for the
11 company doesn't change, does it?

12 MARK SWARTZ: It only changes if some of those
13 heirs...let's forget about the question...let's keep it even
14 simpler. The only way that an applicant can wind up with
15 less than 87½% working interest in the unit is if somebody
16 participates. So, if that's true whenever we're here, okay,
17 the impact here is that there is an opportunity in this case,
18 as in every other pooling, for us to have less than 87½% if
19 somebody participates. His point is that if people
20 participate in a 1/6th of the tract or a 1/8th, their
21 participation will increase, okay. And my answer to that is
22 they're going to have an election right to participate and
23 they're going to have to duke it out among themselves as best

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1 they can to determine what that participation increase
2 ultimately winds up being. If anything, the reality is his
3 side of the issue are being allowed to participate at 1/8th
4 as opposed to 16th so they can pony up less money to
5 participate. So...but, you know...but the law doesn't say
6 that you can ignore stuff because of that. But the reality
7 is here we have most of that family leased. Everybody is
8 going to have...that is not leased is going to have a right
9 to participate. The participation at this point has to be
10 based consistently on the information that we're using which
11 is 1/8th, which the net effect of fact in this particular
12 instance...I mean, someday we could be here and we could be
13 on opposite sides. I could be arguing 6th and he could be
14 arguing an 8th and the dollars would be up. The accidental
15 effect here is they're going to have an opportunity to
16 participate at a smaller number than they claim they own,
17 which if they're successful, will ratchet up to match their
18 interest. Because, you know, if they win that argument,
19 they're going to be...they're going to have a bigger piece of
20 the unit. But, you know, the reality is we go into these
21 with an assumption that in most instances the 12...well, in
22 all instances the 12½% is going to be paid to somebody. So,
23 the most we're ever going to be working with is the 87½% and
24

1 we have no control over participation. I mean, there isn't a
2 lot of participation. But, you know...and they're going to
3 be afforded those rights here. And, you know, they have an
4 argument. Unfortunately, you know, we're going to have to
5 escrow...we may have to escrow this whole unit. I mean, we
6 need to think about this because there's clearly...there's a
7 title issue here. I don't know how we resolve it short of
8 escrowing the whole tract. I said, you, and I meant the
9 tract.

10 BENNY WAMPLER: Do you want to go ahead and
11 describe the supplemental order process in the event you have
12 participation?

13

14 MARK SWARTZ: The...you have options...the Board
15 has sort of found their way to kind of a standard form that
16 they use that has pretty recognizable terms which are driven
17 in large part by the statute. The statute says that you have
18 to offer people an opportunity to go forward in the unit on
19 various basis. One thing that people can always do, which is
20 preserved in the statute, is you can work out an arrangement.
21 I mean, you can work out any kind of arrangement or do
22 whatever you want if you can meet...if you can have a meeting
23 of the minds. Absent that, people have an absolute right to

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1 say I'm going to pay you my percentage of the allocated costs
2 and I'm going to be your partner, get ready, okay? Or people
3 can say, I want to be your partner but I don't want to write
4 a check. So, when the multiple of my interest gets...gets
5 paid out to the operator, then I can back into the well as a
6 participant and as an owner. Then there's...or I'm not going
7 to do anything and then there's a...you're going to...there's
8 an assumption that that person is leased and they get their
9 royalty and don't have to pony up and earn a partner in the
10 well and don't share any of the risk going forward. There's
11 a...the order gets entered. The order gets mailed to the
12 folks and then they have a period to make an election. So,
13 they have, I don't remember if it's thirty or forty-five
14 days. But it's...you know, it's expressed in the exhibit
15 that we've got here. Then they...some people will write back
16 to the operator and say this is what I want to do. Some
17 people will do nothing. And what we do at the end of the
18 expiration of that period is we then file with the Board an
19 explanation, or sort of an accounting for what happened. You
20 know, that these people had election rights, these people
21 elected those rights or did this or that and we need to enter
22 a further order and that's what happens here. So, if Mr.
23 Campbell's family participates, there's going to be another

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1 trip...not really a trip, but at least a mailing to the Board
2 that will say they have given us a written election to
3 participate. They paid their money within the time frame.
4 And we need to set up yet another escrow account to deal
5 with...because we're going to have to escrow that tract, to
6 deal with the participation argument here. So, there's...you
7 know, you kind of get the ball rolling today and then people
8 make choices which cause things to happen or not happen. You
9 know, Les was talking earlier about costs. You know, if
10 people participate in a unit, they're entitled to something
11 more than an estimate. You know, they're entitled to this is
12 what we spent, which is more or less, you know. And so they
13 get a different accounting. The Board requires that and set
14 forth. You know, there's stuff that happens after today. I
15 hope I haven't like worn you out here. But that, in general,
16 is what happens.

17 BENNY WAMPLER: Well, I wanted to for Mr. Campbell
18 to hear that so that...you know, he probably...you may
19 already know that but I wanted you to know that whenever we
20 send the orders out you still have the opportunity to choose
21 the election.

22 SAM CAMPBELL: I understand that.

23 BENNY WAMPLER: If this were to get clarified
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1 before then through Court or whatever action then, you know,
2 it could be resolved at that point in time.

3 SAM CAMPBELL: I do understand, sir. I thank you.
4 I understand Mr. Swartz's point from the perspective of his
5 client, given the numbers that they're using my...my family
6 or members of my family, if they chose, could participate for
7 less cost. But by the same token, unless those numbers are
8 challenged, and it may truly turn out to be minuscule, but
9 they would receive less royalty at the same token.

10 BENNY WAMPLER: Right. We tabled item thirty...
11 item six on the Board's agenda. That was docket number VGOB-
12 02-08/20-1056 earlier. I believe, Mr. Campbell, you
13 indicated the purpose of that request was to resolve this
14 Benny Boyd issue of whether or not he should have been
15 included in tract 4.

16 SAM CAMPBELL: Right, sir.

17 BENNY WAMPLER: Is that correct?

18 SAM CAMPBELL: Correct, sir.

19 MARK SWARTZ: We need to continue 35 so we can
20 notice Benny. But I would request that you pool EE-36 today
21 because we certainly noticed Benny.

22 SAM CAMPBELL: He was...according to what they
23 filed, he was noticed for 36. So, I couldn't object to that

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1 legitimately.

2 BILL HARRIS: Mr. Chairman.

3 BENNY WAMPLER: Yes.

4 BILL HARRIS: I also have a comment about 35 and
5 36. Just looking at the list in tract 4, the dates are
6 different in terms of when this was completed, and you
7 probably already know what I'm going to say. I think Gladys
8 R. Johnson you have in care of address in the EE-36, where is
9 was listed as address unknown in EE-35. Also, Henry Terrence
10 Plaster, you have an address for that person now. So, if you
11 are going to go back to 35, you might want to notify them.

12 MARK SWARTZ: Those are addresses we got from Mr.
13 Campbell.

14 BILL HARRIS: Okay. But I noticed the date.
15 Again, there's the two months---.

16 MARK SWARTZ: Right. So, we need to fix that.

17 BILL HARRIS: --- difference in dates here. So---.

18 MARK SWARTZ: Right.

19 (Mr. Swartz and Mr. Arrington confer.)

20 BENNY WAMPLER: Any other questions from---?

21 MARK SWARTZ: Thank you.

22 BENNY WAMPLER: ---members of the Board?

23 (No audible response.)

24

1 BENNY WAMPLER: Do I have a motion?

2 MASON BRENT: Mr. Chairman, I assume, we're

3 continuing agenda item number six?

4 BENNY WAMPLER: I believe that was without

5 objection of counsel.

6 MARK SWARTZ: Right.

7 BENNY WAMPLER: And that's a request before us to

8 continue that. Without objection, that will just be

9 continued in order to cure item number six...agenda item six.

10 MASON BRENT: You want a motion on eleven, twelve

11 and twenty-six.

12 BENNY WAMPLER: So, now we're dealing with eleven,

13 twelve, and twenty-seven.

14 MASON BRENT: I mean, twenty-seven.

15 KEN MITCHELL: Mr. Chairman, I will make a motion

16 for approval of eleven, twelve and twenty-seven after hearing

17 the testimony without making a decision one way or the other.

18 That's my motion, sir.

19 BENNY WAMPLER: Is there a second?

20 MASON BRENT: I would second that.

21 BENNY WAMPLER: Motion and second. Is there any

22 further discussion?

23 (No audible response.)

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1 BENNY WAMPLER: All in favor, signify by saying
2 yes.

3 (All members signify by saying yes.)

4 BENNY WAMPLER: Opposed, say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval. Thank you.

7 We're going to adjourn for lunch now. Return at 1:00 o'clock.

8 (Lunch.)

9 BENNY WAMPLER: The next item on the agenda is a
10 petition from Equitable Production Company for pooling of a
11 conventional gas unit identified as V-502710, docket number
12 VGOB-02-09/17-1075. We'd ask the parties that wish to
13 address the Board in this matter to come forward at this
14 time.

15 JIM KISER: Mr. Chairman and members of the Board,
16 Jim Kiser on behalf of Equitable Production Company. Our
17 witness in this matter will be Mr. Don Hall. I'd ask that he
18 be sworn at this time.

19 (Don Hall is duly sworn.)

20 BENNY WAMPLER: The record will show there are no
21 others. You may proceed.

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DON HALL

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Mr. Hall, could you state your name for the record, who you're employed by and in what capacity?

A. My name is Don Hall. I'm employed by Equitable Production as district landman.

Q. And do your responsibilities with Equitable include the land involved in this unit and in the surrounding area?

A. Yes.

Q. And are you familiar with Equitable's application seeking a...the establishment of a drilling unit and pooling any unleased interest for EPC well number V-502710, which was dated August the 16th, 2002?

A. Yes.

Q. Now, does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And prior to filing the application, were efforts made to contact each of the respondents listed within

1 the unit in an attempt made to work out a voluntary
2 agreement?

3 A. It was.

4 Q. Okay, and at the time we filed the
5 application, there was two unleased parties in the unit, is
6 that correct?

7 A. That's correct.

8 Q. And at that time we had 98.95% of the unit
9 under lease with 1.05% unleased?

10 A. That's correct.

11 Q. And since that time you have continued to
12 try to reach a voluntary agreement with the unleased parties?

13 A. Yes.

14 Q. Have you been successful in obtaining any
15 additional leases?

16 A. Yes, we have. We have leased Martha
17 Sexton. The Exhibit B that we just passed out reflects the
18 new leased parties and the new percentages.

19 Q. Okay, at this time, the percentage of the
20 unit under lease is 99.11?

21 A. That's correct.

22 Q. And the unleased percentage represents
23 0.89%?

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1 A. That's right.

2 Q. In your professional opinion, was due
3 diligence exercised to locate each of the respondents named
4 at Exhibit B?

5 A. Yes.

6 Q. Are the addresses set out in Revised Exhibit
7 B to the application the last known addresses for the
8 respondents?

9 A. Yes.

10 Q. Are you requesting this Board to force pool
11 all unleased interest as listed as listed in Revised Exhibit
12 B?

13 A. We are.

14 Q. Now, are you familiar with the fair market
15 value of drilling rights here and in the surrounding area?

16 A. Yes.

17 Q. Could you advise the Board as to what those
18 are?

19 A. A \$5 bonus, five year term and a one-eighth
20 royalty.

21 Q. Did you gain your familiarity and your
22 opinion as to the fair market value by acquiring oil and gas
23 leases, coalbed methane leases and other agreements involving
24

1 the transfer of drilling rights in the unit involved here and
2 in the surrounding area?

3 A. Yes.

4 Q. And in your professional opinion, do the
5 terms you have testified to represent the fair market value
6 of and the fair and reasonable compensation to be paid for
7 drilling rights within this particular unit?

8 A. Yes.

9 Q. Now, based on the one respondent who has not
10 voluntary agreed to lease, do you recommend that she be
11 allowed the following options with respect to her ownership
12 interest within the unit: One, participation; two, a cash
13 bonus of \$5 per net mineral acre plus a one-eighth of eight-
14 eighths royalty; three, in lieu of a cash bonus and one-
15 eighth of eight-eighths royalty, a share in the operation of
16 the well on a carried basis as a carried operator under the
17 following conditions: Such carried operator shall be
18 entitled to share of production from the tracts pooled
19 accruing to his interest exclusive of any royalty or
20 overriding royalty reserved in any leases, assignments
21 thereof or agreements relating thereto of such tracts, but
22 only after the proceeds applicable to his share equal, A)
23 300% of the share of such cost applicable to the interest of
24

1 the carried operator of a leased tract or portion thereof; or
2 B) 200% of the share of such cost applicable to the interest
3 of the carried operator of an unleased tract or portion
4 thereof?

5 A. Yes.

6 Q. Do you recommend that the order provide that
7 the elections by respondents be in writing and sent to the
8 applicant at Equitable Production Company, 1710 Pennsylvania
9 Avenue, Charleston, West Virginia, zip code, 25328,
10 Attention: Melanie Freeman, Regulatory?

11 A. Yes.

12 Q. And should this be the address for all
13 communications with the applicant concerning any force
14 pooling order?

15 A. Yes, it should.

16 Q. Do you recommend that the order provide that
17 if no election is properly made by a respondent, then such
18 respondent shall be deemed to have elected the cash royalty
19 option in lieu of participation?

20 A. Yes.

21 Q. Should all unleased respondents be given 30
22 days from the date that the order is executed to file their
23 written elections?

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1 A. Yes.

2 Q. And if an unleased respondent elects to
3 participate, should they be given 45 days to pay for the
4 applicant for respondent's proportionate share of well costs?

5 A. Yes.

6 Q. Does the applicant expect any party electing
7 to participate to pay to in advance that party's share of
8 completed well costs?

9 A. Yes.

10 Q. Should the applicant be allowed a 120 days
11 following the recordation date of the Board order and
12 thereafter annually on that date until production is achieved
13 to pay or tender any cash bonus becoming due under the force
14 pooling order?

15 A. Yes.

16 Q. Do you recommend that the order provide that
17 if a respondent elects to participate but fails to pay their
18 proportionate share of well costs satisfactory to the
19 applicant, then the respondent's election to participate
20 shall be treated as having been withdrawn and void?

21 A. Yes.

22 Q. Do you recommend that the order provide that
23 where a respondent elects to participate but defaults in
24

1 regard to the payment of well costs, any cash sum becoming
2 payable to that respondent be paid within 60 days after the
3 last date on which such respondent could have paid or made
4 satisfactory arrangements for the payment of those costs?

5 A. Yes.

6 Q. Okay. This is a conventional well and we
7 don't have any unknown parties. So, we do not need the Board
8 to create an escrow account for this well, is that correct?

9 A. That's correct.

10 Q. And who should be named operator under the
11 force pooling order?

12 A. Equitable Production Company.

13 Q. Now, what is the total depth of the proposed
14 well under the plan of development?

15 A. It's 6274 feet.

16 Q. And is Equitable requesting the force
17 pooling of conventional gas reserves, not only to include the
18 designated formations, but any other formations excluding
19 coal formations which may be between those formations
20 designated from the surface to the total depth drilled?

21 A. Yes.

22 Q. And what are the estimated reserves of this
23 unit?

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1 A. 275,000,000 cubic feet.

2 Q. Now, are you familiar with the well costs
3 for the proposed well under the plan of development?

4 A. Yes.

5 Q. Was an AFE...has an AFE been reviewed,
6 signed and submitted to the Board as Exhibit C to the
7 application?

8 A. It has.

9 Q. Was this AFE prepared by an engineering
10 department knowledgeable in the preparation of AFEs and
11 knowledgeable in regard to well costs in this particular
12 area?

13 A. Yes.

14 Q. In your opinion, does this AFE represent a
15 reasonable estimate of the well costs for the proposed well?

16 A. It does.

17 Q. Could you state for the Board at this time
18 both the dry hole costs and the completed well costs for
19 502710?

20 A. The dry hole costs is \$181,222 and the
21 completed well costs would be \$296,984.

22 Q. Do these costs anticipate a multiple
23 completion?

24

1 A. They do.

2 Q. Does your AFE include a reasonable charge
3 for supervision?

4 A. Yes, it does.

5 Q. In your professional opinion, would the
6 granting of this application be in the best interest of
7 conservation, the prevention of waste, and the protection of
8 correlative rights?

9 A. Yes.

10 JIM KISER: Nothing further of this witness at this
11 time, Mr. Chairman.

12 BENNY WAMPLER: Questions from members of the
13 Board?

14 BILL HARRIS: Mr. Chairman, just for my
15 information, when there's one person like this unleased, so
16 we don't escrow money?

17 JIM KISER: Well, in a conventional well sense, the
18 escrow is there for unknown or unlocateable parties.
19 There's...you run into mostly escrows involved in a CBM unit
20 because you have conflicting claims. So, the only time you'd
21 escrow money in a conventional pooling situation would be if
22 there was a interest owner within the unit that was unknown
23 and unlocateable.

24

--

1 BENNY WAMPLER: Other questions?

2 DONALD RATLIFF: Mr. Chairman, as a point of being
3 accurate, Jeff Justus' correct name is Jess, J-E-S-S.
4 Sometimes our flat eyes---.

5 JIM KISER: Thank you. We can submit a revised
6 Exhibit B. J-E-S-S?

7 DONALD RATLIFF: Yes.

8 JIM KISER: Okay.

9 BENNY WAMPLER: Other questions or clarifications?
10 (No audible response.)

11 BENNY WAMPLER: Do you have anything further?

12 JIM KISER: We'd ask, Mr. Chairman, that the
13 application be approved as submitted with the change to
14 Exhibit B.

15 BENNY WAMPLER: Is there a motion?

16 KEN MITCHELL: Mr. Chairman, I make a motion for
17 agenda item number thirteen as called out specifically.

18 BENNY WAMPLER: For approval?

19 KEN MITCHELL: For approval. Yes, sir.

20 BILL HARRIS: Second.

21 BENNY WAMPLER: Motion and second. Any further
22 discussion?

23 (No audible response.)

24

1 BENNY WAMPLER: All in favor, signify by saying
2 yes.
3 (All members say yes.)
4 BENNY WAMPLER: Opposed, say no.
5 (No audible response.)
6 BENNY WAMPLER: You have approval. The next item is
7 a petition from Equitable Production Company for pooling of a
8 coalbed methane unit under the Nora Coalbed Gas Field
9 identified as VC-502597, docket number VGOB-02-09/17-1076.
10 We'd ask the parties that wish to address the Board in this
11 matter to come forward at this time.
12 JIM KISER: Mr. Chairman, members of the Board, Jim
13 Kiser, again, on behalf of Equitable Production Company. Our
14 witness will again be Mr. Hall. He is presently handing out
15 a revised plat and a revised AFE for this well. And I'm
16 going to hand out...I assume you all did not get this letter
17 that I'm going to hand it out to you. It's from Mr. Darrell
18 Powers. He's one of the parties that we are pooling. I
19 don't think I have enough copies.
20 BENNY WAMPLER: We'll share.
21 (Exhibits are distributed.)
22 JIM KISER: I assume you all probably did not get a
23 copy of that letter.
24

1 BENNY WAMPLER: No, we didn't.

2 (Exhibits are continued to be distributed.)

3 BENNY WAMPLER: The record will show there are no
4 others. You may proceed.

5

6 DON HALL

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. KISER:

9 Q. Okay, Mr. Hall, if you'd again state your
10 name for the Board, who you're employed by and in what
11 capacity?

12 A. Don Hall. I'm employed by Equitable
13 Production as district landman.

14 Q. And do your responsibilities, again, include
15 the land involved here for this unit and in the surrounding
16 area?

17 A. They do.

18 Q. Are you familiar with Equitable's
19 application seeking a pooling order for EPC well number VC-
20 502597, which was dated August the 16th, 2002?

21 A. Yes.

22 Q. Is Equitable seeking to force pool the
23 drilling rights underlying the unit as depicted in Exhibit A,

24

--

1 that being the plat to the application?

2 A. Yes.

3 Q. Does Equitable own drilling rights in the
4 unit involved here?

5 A. We do.

6 Q. Now, prior to filing the application, were
7 efforts made to contact each of the respondents listed and an
8 attempt made to work out a voluntary agreement regarding the
9 development of the unit?

10 A. It was.

11 Q. And what is the interest of Equitable within
12 the gas estate in the unit?

13 A. We have 97.74% leased.

14 Q. And what is the interest of Equitable in the
15 coal estate?

16 A. We have 100% leased.

17 Q. Are you familiar with the ownership of
18 drilling rights of parties other than Equitable underlying
19 this unit?

20 A. Yes.

21 Q. And what is the interest within the gas that
22 is unleased?

23 A. 2.26%

24

1 Q. Now, we have handed out a...before we get
2 into the...some of the other testimony, we handed out a
3 revised Exhibit A, and a revised Exhibit C, that being the
4 AFE. First let's turn to the plat. I notice that we moved
5 the location is the reason for the new plat and the location
6 is now outside the window. Are you seeking a location
7 exception to the permit process?

8 A. Through the permit application, yes, since
9 this is a coalbed well.

10 Q. Okay.

11 A. The well...from the time we filed the
12 application for the force pooling and we ended up having to
13 move the well because of topography problems and since we
14 moved the well, it changed the AFE cost somewhat.

15 Q. Okay.

16 A. And that's the reason we have a new...also
17 have a new AFE.

18 Q. Okay. So, the only unleased interest within
19 this unit are the B. S. Powers heirs, that being tract 3?

20 A. That's correct.

21 Q. The gas estate in tract 3?

22 A. That's correct.

23 Q. Okay, in your professional opinion, was due
24

1 diligence exercised to locate each of the respondents named
2 in Exhibit B?

3 A. Yes.

4 Q. And are the addresses set out in Exhibit B
5 to the application the last known addresses for the
6 respondents?

7 A. Yes, it is.

8 Q. Are you requesting this Board to force pool
9 all the unleased interest listed in revised Exhibit B?

10 A. Yes.

11 Q. Now, are you familiar with...familiar with
12 the fair market value of drilling rights in the unit here and
13 in the surrounding area?

14 A. Yes.

15 Q. Could you advise the Board as to what those
16 are?

17 A. A \$5 dollar bonus, a five year term and one-
18 eighth royalty.

19 Q. In your opinion, do these terms you have
20 testified to represent the fair market value of and the fair
21 and reasonable compensation to be paid for drilling rights
22 within this unit?

23 A. They do.

24

--

1 JIM KISER: Mr. Chairman, at this time regarding
2 the testimony that we entered into the record for the order
3 regarding the election options afforded the unleased parties
4 and their different time periods in which to exercise those
5 options, we'd ask that the testimony just taken previously in
6 VGOB docket number 02-09/17-1075 be incorporated into this
7 hearing.

8 BENNY WAMPLER: That will be incorporated.

9 Q. Okay. Mr. Hall, we do...do we need...we do
10 need the Board to establish an escrow account for this
11 particular well...for this particular unit because we do have
12 a conflicting claimant situation to the coalbed methane on
13 tract 3, is that correct?

14 A. That is correct.

15 Q. And who should be named the operator under
16 any force pooling order?

17 A. Equitable Production Company.

18 Q. Now, what is the proposed depth of the well?

19 A. The new depth after moving the well is 2487
20 feet, which will probably be different than what's in the
21 application.

22 Q. Yeah, I think the application...the original
23 application before the location was changed was 2420. So,

24

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1 the correct depth now is 2487?

2 A. That's correct.

3 Q. And what are the estimated reserves for the
4 unit?

5 A. 300,000,000 cubic feet.

6 Q. Now, are you familiar with the well costs
7 for the proposed well under the plan of development?

8 A. Yes.

9 Q. Has an AFE been reviewed, signed and
10 submitted to the Board as Exhibit C to the application?

11 A. It has.

12 Q. Was your AFE prepared by an engineering
13 department knowledgeable in the preparation of AFEs and
14 knowledgeable in regard to well costs in this area?

15 A. Yes.

16 Q. In your professional opinion, does it
17 represent a reasonable estimate of the well costs?

18 A. It does.

19 Q. At this time, could you state for the Board
20 both the dry hole costs and the completed well costs for
21 502597?

22 A. The dry hole costs would be \$94,348, and the
23 completed well costs was \$219,708.

24

--

1 Q. Do these costs anticipate a multiple
2 completion?

3 A. They do.

4 Q. Does your AFE include a reasonable charge
5 for supervision?

6 A. It does.

7 Q. In your professional opinion, would the
8 granting of this application be in the best interest of
9 conservation, the prevention of waste, and the protection of
10 correlative rights?

11 A. It would.

12 JIM KISER: Nothing further of this witness at this
13 time, Mr. Chairman.

14 BENNY WAMPLER: Any questions from members of the
15 Board?

16 BILL HARRIS: Mr. Chairman, I do have a question
17 about the movement again. You're moving further out of the
18 window. There's no way to move it---?

19 DON HALL: No, we have...it's in...the terrain
20 doesn't allow to be in the window. We've filed along with
21 the application to the...to Bob, we've filed an application
22 request for a location exception on this well.

23 DONALD RATLIFF: Mr. Chairman, another very
24

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1 minute...either the...I think the zip code for Lebanon is
2 wrong.

3 JIM KISER: He's good.

4 DONALD RATLIFF: If not Lebanon, Clincho. I don't
5 think they have the same zip code. But I...my office was in
6 Lebanon for ten years. But it has been a year ago. So, I
7 don't remember the zip code.

8 JIM KISER: So, one of them is not 24226?

9 DONALD RATLIFF: That's correct.

10 DON HALL: 228 is Clincho.

11 DONALD RATLIFF: Okay.

12 DON HALL: Or Clintwood, I'm sorry. 228 is
13 Clintwood.

14 BENNY WAMPLER: Very good.

15 DONALD RATLIFF: 228 is Clintwood. Clincho is
16 right under it.

17 JIM KISER: He's saying Lebanon and Clincho are the
18 same on our exhibit.

19 DON HALL: Yeah, I think Lebanon is probably
20 not...I think Clincho is 226.

21 JIM KISER: Okay.

22 DONALD RATLIFF: All right. Yeah, I think Lebanon's
23 wrong.

24

1 DON HALL: Yeah.

2 MASON BRENT: What happened to this other property
3 line on this new plat?

4 DON HALL: That was...that was an internal surface
5 line, I believe.

6 MASON BRENT: Internal surface line?

7 DON HALL: Yeah, that wasn't necessary to be on
8 there.

9 BENNY WAMPLER: Well, it's not a tract depiction?

10 DON HALL: Oh, no, it's...yeah, it was an internal
11 surface line because the tracts on either side of it, with
12 the exception of the Powers' tract, tracts on either side of
13 it is the same mineral tract, T-408. And T-408, if you look
14 in the...their both Pittston/Pine Mountain tracts. That was
15 a line depicting some surface breakdown inside the mineral
16 tract.

17 BENNY WAMPLER: Other questions or comments?

18 KEN MITCHELL: Mr. Chairman.

19 BENNY WAMPLER: Mr. Mitchell.

20 KEN MITCHELL: When I look at the two layouts, the
21 well location plat, when I look at the revised edition up on
22 the very, very top, it shows 11,145 feet to this cross line,
23 which I assume is a pen or some specific point. When I look
24

1 at the old one, it's 11,075 feet. Was that a engineering
2 change or was there a change in the---?

3 DON HALL: It's because the location moved, I
4 guess. That---.

5 JIM KISER: That depicts---.

6 DON HALL: Let me look at the other plat.

7 KEN MITCHELL: But the X at the top of the drawing
8 doesn't correlate straight down or south to the location of
9 the unit itself.

10 DON HALL: No, it doesn't. But that X is...to
11 locate this well on a 2,000 foot topo, the longitude and
12 latitude figures are calculated on either side of this.

13 KEN MITCHELL: Okay.

14 DON HALL: You put this...if you locate this on a
15 2,000 topo, you put this corner at the intersection of these
16 two...of this longitude and latitude---.

17 KEN MITCHELL: Uh-huh.

18 DON HALL: ---and if you stick a pen through the X
19 that's where the well IS on the 2,000 topo. It doesn't have
20 anything to do with what it is here.

21 KEN MITCHELL: Okay.

22 DON HALL: It has just a thing to locate it on a
23 2,000 typographic map.

24

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1 KEN MITCHELL: And also something I do not
2 understand, on the revised edition, in the upper right hand
3 corner there, they've got six or seven lines which end up gas
4 57.44 and acreage 97.74 on the revised one. On the previous
5 one, it says gas 14.47 acres...14.47 acreage 24. Is that---?
6 DON HALL: That's because---.
7 KEN MITCHELL: ---because of the relocation of the
8 well?
9 DON HALL: No, it's because of this line...they run
10 it on the original one. They erroneously calculated this as
11 two tracts. I think if you add these two together, you're
12 going to get this.
13 KEN MITCHELL: Okay. Okay.
14 JIM KISER: That was a mistake on the original one.
15 DON HALL: Yeah.
16 BENNY WAMPLER: Anything further?
17 (No audible response.)
18 BENNY WAMPLER: Do you have anything further?
19 JIM KISER: We'd ask that the application be
20 approved as submitted, Mr. Chairman, with the caveat that
21 we'll correct Exhibit B, again, on the zip code for Lebanon,
22 Virginia.
23 BILL HARRIS: Mr. Chairman, I move that we approve
24

1 the application as amended or as corrected.

2 DONALD RATLIFF: Second.

3 KEN MITCHELL: Second.

4 BENNY WAMPLER: Second. Any further discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor, signify by saying

7 yes.

8 (All members signify by saying yes.)

9 BENNY WAMPLER: Opposed, say no.

10 (No audible response.)

11 BENNY WAMPLER: You have approval. Mr. Kiser,

12 before you leave, on the Powers' letter that you handed out,

13 do you know where they got the 60 and 40%?

14 JIM KISER: No, that was obviously...didn't even

15 involve my client. That was something to do, I assume, with

16 Pittston or Pine Mountain.

17 DON HALL: I think I can---.

18 JIM KISER: Don, might be able to explain.

19 DON HALL: This is a...we force pooled these people

20 in a previous well and Pine Mountain has made efforts in the

21 past to do some splitting of the royalties. I think they're

22 probably referring to a letter they must have gotten from

23 Pine Mountain about a split.

24

--

1 BENNY WAMPLER: Thank you. The next item on the
2 agenda is a petition from Columbia Natural Resources
3 incorporated for pooling of conventional gas unit identified
4 as 24902, docket number VGOB-02-09/17-1077. We'd ask the
5 parties that wish to address the Board in this matter to come
6 forward this time.

7 JIM KISER: Mr. Chairman, Jim Kiser on behalf of
8 Columbia Natural Resources. Our two witnesses in this matter
9 will be Mr. Ron Stover and Mr. Todd Tetrick. If we could
10 take a brief recess, I've got quite a few things to hand out
11 in the way of resumes and revised exhibits. So---.

12 BENNY WAMPLER: We'll let them be sworn while we're
13 doing that.

14 JIM KISER: Sure.
15 (Witnesses are duly sworn.)

16 MASON BRENT: Mr. Chairman, before you start on
17 this agenda item, I'd like for the record to reflect that I
18 am recusing myself from any consideration of agenda items
19 fifteen, sixteen, seventeen, eighteen or nineteen.

20 BENNY WAMPLER: All right, that's on record.
21 (Exhibits are distributed.)

22 BENNY WAMPLER: I'll go ahead. Also, Mr. Kiser has
23 requested to withdraw items seventeen, eighteen and nineteen
24

1 on our agenda, that's docket number VGOB-02-09/17-1079, and
2 02-09/17-1080, and 02-09/17-1081. Those are withdrawn from
3 consideration.

4 (Exhibits continue to be distributed.)

5 KEN MITCHELL: Mr. Chairman.

6 BENNY WAMPLER: Yes, Mr. Mitchell.

7 KEN MITCHELL: One quick clarification, and maybe
8 I'm missing something, but under the documents that were just
9 handed out, the well number is marked 824901. Under the
10 original documents that were shipped to us in the original
11 packet, the well number is 24901. There's an 8 in front
12 of...the new ones you just gave us---.

13 JIM KISER: Uh-huh.

14 KEN MITCHELL: ---start with number 8.

15 JIM KISER: Uh-huh.

16 KEN MITCHELL: I'm not familiar with well
17 designation numbers. I would like to understand why there
18 might be an 8 and not an 8 on the original document.

19 JIM KISER: I think there's an 8 in front of all of
20 them.

21 TODD TETRICK: The 8...the 8 designates a separate
22 area or CNR. They have different operating regions. So,
23 they would have a 6 in New York or an 8 for Kentucky or
24

1 Virginia and that's all that is.

2 KEN MITCHELL: Okay. So, that would be a
3 geographic designation?

4 TODD TETRICK: Essentially, yes. The 24901 is the
5 well number.

6 BENNY WAMPLER: Okay, Mr. Kiser, the record will
7 show there are no others, you may proceed.

8 JIM KISER: Okay, we'll start with Mr. Stover.

9

10

11 RONALD STOVER

12 having been duly sworn, was examined and testified as
13 follows:

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KISER:

16 Q. Could you state your name for the record and
17 who you're employed by and in what capacity?

18 A. Ronald Stover, employed by CNR as a contract
19 land man.

20 Q. You have not previously testified before the
21 Virginia Gas and Oil Board, and we have submitted a copy of
22 your resume to the Board. If you could take a few moments
23 now and go through both your educational and work experience

24

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1 for the Board, please.

2 A. Okay, education, I lived in West Virginia
3 and went to Ripley High School which I graduated from. I
4 went to Potomac State College, which is in Kyser, West
5 Virginia. I finished two years. A member of the American
6 Association of Petroleum Landmen. Employment objectives:
7 I've been in the oil and gas business since December of '79
8 as an independent contractor. I worked for several different
9 companies, Ashland, Conoco, Oxy, Columbia Natural Resources
10 doing title abstracting, leasing, right-of-ways and damage
11 settlements.

12 Q. And you've spent a considerable amount of
13 time working on not only this well that's before the Board
14 right now but the next hearing that we're going to have,
15 which is 24902?

16 A. Yes, that's right.

17 JIM KISER: Mr. Chairman, we'd ask that Mr.
18 Stover's credentials as a witness in land matters be accepted
19 by the Board.

20 BENNY WAMPLER: He's accepted without objection.

21 Q. Now, you're familiar with the application
22 that we filed seeking the establishment of a drilling unit
23 and a pooling of any unleased interest for CNR well number
24

--

1 24901, which was dated August the 16th, 2002?

2 A. Yes, I am.

3 Q. And does CNR own drilling rights in the unit
4 involved here?

5 A. Yes.

6 Q. Does the proposed unit as depicted at
7 Exhibit A, that being the plat to the application, include
8 all the acreage within 2500 feet of proposed well number
9 24901?

10 A. Yes, it does.

11 Q. Now, prior to filing the application, were
12 efforts made to contact each of the parties owning an
13 interest within the unit and an attempt made to acquire a
14 voluntary lease?

15 A. Yes.

16 Q. Now, when we filed the application on August
17 the 16th of 2002, you had obtained voluntary leases from
18 98.90% of the interest owners within the unit?

19 A. Yes.

20 Q. So, at that time the percentage...at the
21 time of filing the application the percentage of the unit
22 that was unleased was 1.1%?

23 A. Yes.

24

1 Q. And since we filed the application, you have
2 continued to attempt to reach lease agreements with the
3 unleased parties, correct?

4 A. Yes.

5 JIM KISER: And we have obtained quiet a few. If
6 the Board will refer to their new Exhibit B, which was just
7 handed out, I'll attempt to go through and note those for
8 you. If you'll go to page four, Iris Bishop was leased,
9 that's one, two, three, four five names down. If you'll go
10 to...well, it's Iris Bishop again, another undivided interest
11 on the bottom of page nine. You'll see the page notations.
12 If you'll go to the next page, Cora Boyd and at the very
13 bottom of the page, Eura Dixon. At the top of the next page,
14 Milton Boyd and Lester Lee Boyd. The next page there's quite
15 a few, there's Roy Boyd and Junior Lee Boyd, Carvel Boyd,
16 Eddie Boyd, Patricia Birchfield, Terry Boyd, Michelle
17 Phillips, Kathy Louckes. There are three more...another part
18 of Iris Bishop's interest, three pages before. And then on
19 the very last page, Iris Bishop again, another portion of his
20 interest.

21 Q. So, at this point in time, what is the
22 percentage of the gas interest within the unit that are under
23 lease to CNR?

24

--

1 A. 99.23%.

2 Q. Leaving what percentage unreleased?

3 A. 0.77%.

4 Q. So, all the remaining unreleased parties are
5 set out in the revised Exhibit B?

6 A. Yes.

7 Q. Okay, Mr. Stover, it appears we do have one
8 unknown interest owner. Were reasonable and diligent efforts
9 made and sources checked to identify and locate any unknown
10 interest owners including primary sources such as deed
11 records, probate records, assessors's record, treasurer's
12 records and secondary sources such as telephone directories,
13 city directories, family and friends?

14 A. Yes, it was.

15 Q. In your professional opinion, was due
16 diligence exercised to locate each of the respondents named
17 herein?

18 A. Yes.

19 Q. And are the addresses set out in the Revised
20 Exhibit B the last known addresses for the respondents?

21 A. Yes, it is.

22 Q. And are you requesting the Board to force
23 pool all the unreleased interest listed in Revised Exhibit B?
24

1 A. Yes.

2 Q. Now, are you familiar with the fair market
3 value of drilling rights in the unit here and in the
4 surrounding area?

5 A. Yes, I am.

6 Q. Could you advise the Board as to what those
7 are?

8 A. \$5 bonus, a five year term and a one-eighth
9 royalty.

10 Q. And did you gain your familiarity by
11 acquiring oil and gas leases and other agreements involving
12 the transfer of drilling rights in the unit involved here and
13 in the surrounding area?

14 A. Yes.

15 Q. In your opinion, do the terms you have
16 testified to represent the fair market of and the fair and
17 reasonable compensation to be paid for drilling rights within
18 this unit?

19 A. Yes.

20 Q. Now, as to those respondents listed as
21 Revised Exhibit B who remain unleased, do you agree that they
22 should be allowed the following options with respect to their
23 ownership interest within the unit: 1) participation; 2) a
24

--

1 cash bonus of \$5 per net mineral acre plus one-eighth of
2 eight-eighths royalty; 3) in lieu of a cash bonus and one-
3 eighth or eight-eighths royalty share in the operation of the
4 well on a carried basis as a carried operator under the
5 following conditions: Such carried operator should be
6 entitled to the share of production from the tracts pooled
7 accruing to his interest exclusive of any royalty or
8 overriding royalty reserved in any leases, assignments
9 thereof or agreements relating thereto of such tracts but
10 only after the proceeds applicable to his share equal A) 300%
11 of the share of such cost applicable to the interest of the
12 carried operator of a leased tract or portion thereof; or B)
13 200% of the share of such cost applicable to the interest of
14 the carried operator of an unleased tract or portion thereof?

15 A. Yes.

16 Q. Do you recommend that any order provide that
17 election by respondents be in writing and sent to the
18 applicant at Columbia Natural Resources, Inc., 900
19 Pennsylvania Avenue, Charleston, West Virginia 25302,
20 Attention: Mary Sue Shulberg?

21 A. Yes.

22 Q. And should this be the address for all
23 communications with the applicant concerning a force pooling
24

1 order?

2 A. Yes.

3 Q. Do you recommend that the order provide that
4 if no written election is properly made by a respondent then
5 such respondent should be deemed to have elected the cash
6 royalty option in lieu of participation?

7 A. Yes.

8 Q. Should the unleased respondents be given
9 thirty days from the date of the order to file their written
10 elections?

11 A. Yes.

12 Q. Should the applicant be allowed a hundred
13 and twenty days following the recordation date of the Board
14 order and thereafter annually on that date until production
15 is achieved to pay or tender any cash bonus becoming due
16 under the order?

17 A. Yes.

18 Q. Do you recommend that the order provide that
19 if a respondent elects to participate but fails to pay their
20 proportionate share of well costs, then the respondent's
21 election to participate should be treated as having been
22 withdrawn and void?

23 A. Yes.

24

--

1 Q. Do you recommend that the order provide that
2 where a respondent elects to participate but defaults in
3 regard to the payment of well costs, any cash sum becoming...
4 becoming due and payable to such respondent under the order
5 be paid within 60 days after the last date on which such
6 respondent could have paid or made satisfactory arrangements
7 for the payment of those costs?

8 A. Yes.

9 Q. And we do have a unknown...one unknown
10 interest owner within the unit. So, does the Board need to
11 create an escrow account for this respondent's benefit?

12 A. Yes, they do.

13 Q. And who should be named operator under any
14 force pooling order?

15 A. Columbia Natural Resources.

16 JIM KISER: That's all I have for this witness at
17 this time, Mr. Chairman.

18 BENNY WAMPLER: Questions for this witness from
19 members of the Board?

20 BILL HARRIS: Mr. Chairman, what...what is the
21 depth of the well?

22 JIM KISER: It will be---.

23 BILL HARRIS: I didn't...I'm looking everywhere
24

--

1 to---.

2 TODD TETRICK: 59.

3 JIM KISER: 5950. We'll be getting to that on Mr.
4 Tetrick's testimony.

5 BILL HARRIS: Okay. Okay, I understand.

6 BENNY WAMPLER: Other questions of this witness?

7 (No audible response.)

8 BENNY WAMPLER: Call your next witness.

9

10 TODD TETRICK

11 having been duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15 Q. Mr. Tetrick, if you'd state your name for
16 the Board, who you're employed by and in what capacity?

17 A. Todd Tetrick, engineer with Columbia Natural
18 Resources.

19 Q. Now, you have not previously testified
20 before the Virginia Gas and Oil Board either. I know you've
21 had some informal hearings with Mr. Wilson in his office.
22 But if you could, for the benefit of the Board, spend some
23 time going through your work experience and educational
24

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1 history.

2 A. I attended Lincoln High School, Shinnston,
3 West Virginia. I received a Bachelor of Science Degree in
4 Petroleum and Natural Gas Engineering from West Virginia
5 University. I went to work for Schlumberger out of college.
6 I was involved in the design and supervision of stimulation
7 and cementing operations in the Appalachian Basin. At that
8 point in time, I went to work for Columbia Natural Resources
9 as a drilling engineer. Currently my responsibilities
10 include: Permitting, all AFE preparation work, and
11 supervision and coordination of all operations, drilling and
12 completion.

13 Q. And that includes all of CNRs prospects in
14 Virginia?

15 A. Yes. All through Virginia, Eastern Kentucky
16 and Southern West Virginia.

17 JIM KISER: Mr. Chairman, we'd ask that Mr.
18 Tetrick's credentials as a witness in the area of operations
19 and production be accepted by the Board.

20 BENNY WAMPLER: He's accepted.

21 Q. Now, are you familiar with the proposed plan
22 of development for this particular well?

23 A. Yes.

24

--

1 Q. And what is the total depth of the proposed
2 well?

3 A. 5950 feet.

4 Q. And is CNR requesting the force pooling of
5 conventional gas reserves not only to include the designated
6 formations but any other formations excluding coal formations
7 which may be between those formations designated from the
8 surface to the total depth drilled?

9 A. Yes.

10 Q. And what are the estimated reserves for this
11 unit?

12 A. 400,000,000 cubic feet.

13 Q. Now, are you familiar with the well costs
14 for this proposed well?

15 A. Yes.

16 Q. And has a revised AFE been prepared, signed
17 and just now submitted to the Board?

18 A. Yes.

19 Q. Was this AFE prepared by an engineering
20 department knowledgeable in the preparation of AFEs and
21 knowledgeable in regard to well costs in this area?

22 A. Yes.

23 Q. In your professional opinion, does the AFE
24

1 represent a reasonable estimate of the well costs for the
2 proposed well under the plan of development?

3 A. Yes.

4 Q. Could you state at this time both the dry
5 hole costs and the completed well costs for 24901?

6 A. Dry hole cost of \$227,315 and completed well
7 costs of \$401,915.

8 Q. Now, do these costs anticipate a multiple
9 completion?

10 A. Yes.

11 Q. And does your AFE include a reasonable
12 charge for supervision?

13 A. Yes.

14 Q. In your professional opinion, would the
15 granting of this application be in the best interest of
16 conservation, the prevention of waste, and the protection of
17 correlative rights?

18 A. Yes.

19 JIM KISER: Nothing further of this witness at this
20 time, Mr. Chairman.

21 BENNY WAMPLER: Questions from members of the
22 Board?

23 BILL HARRIS: Well, I guess I'm...I guess I'm
24

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1 curious about the difference in the two. I just wondered
2 where the...where most of the cost---.

3 JIM KISER: I figured somebody would ask that
4 question.

5 BILL HARRIS: Oh, okay.

6 JIM KISER: Good for you. Mr. Tetrick, if you will
7 explain. If you'll go to the...if you look under the first
8 section of cost, the bottom line says "Total Intangibles".

9 BILL HARRIS: Yes.

10 JIM KISER: And if you'll go up two lines, the land
11 and lease cost---.

12 BILL HARRIS: Land and lease, yes.

13 JIM KISER: ---abstract.

14 BILL HARRIS: I found that, yeah.

15 JIM KISER: Take it from there.

16 TODD TETRICK: Initially, we were under the
17 impression that this was a large mineral lease of Pine
18 Mountain Oil and Gas. Once we...further investigation led to
19 the heirships that you see in Exhibit A, I believe, or
20 Exhibit B and the land and leasing costs were quite
21 extensive. That was...that was the only reason that the AFE
22 increased as it did.

23 BILL HARRIS: Yeah, I see 2,000 on the initial and
24

1 I guess---.

2 TODD TETRICK: Yeah.

3 BILL HARRIS: ---and I guess that's an estimate
4 that you make---.

5 TODD TETRICK: Right.

6 BILL HARRIS: ---on a well like that.

7 JIM KISER: And it increased to 59,000. So, I
8 would say probably---.

9 BILL HARRIS: Yeah.

10 JIM KISER: ---90% of the increase is reflected in
11 the lease acquisition cost.

12 TODD TETRICK: Yeah, and contract land work. It's
13 every bit of that.

14 JIM KISER: There's probably...I should know
15 because we sent the notices out. But I think there's
16 somewhere in the area of a hundred interest owners within
17 this unit. Now, I actually think they should be commended.
18 I don't want to pat them on the back too hard, but to get
19 this unit in the shape that it's in with less than 1% of the
20 unit unleased with that many people. So, that's where the
21 costs are.

22 TODD TETRICK: And there were additional legal
23 and...legal costs associated with the pooling hearing and
24

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1 additional title work.

2 BILL HARRIS: Thank you.

3 JIM KISER: And you'll see this reflected in the
4 next well too, 24902, because it's pretty much the same
5 parties.

6 BENNY WAMPLER: Other questions?

7 (No audible response.)

8 BENNY WAMPLER: You also attached a page two to
9 this one.

10 JIM KISER: Yeah, their operations people asked me
11 to do that because we've been getting a lot of...we've
12 actually had...you know, I've been doing this, I guess, ten
13 or eleven years now. I don't think we've had people elect to
14 participate more than two or three times. But in the last
15 seven or eight CNR wells we've done, there has been parties
16 electing to participate and some of their operations people
17 asked that we...just for informational purposes, not as part
18 of the total cost of the AFE. But if somebody does elect to
19 participate so that they'll know that there is a monthly
20 overhead charge, well tending and well maintenance.

21 BILL HARRIS: And that's not included already
22 in---?

23 JIM KISER: That's not in the 401915, no, because
24

--

1 that would be a monthly charge. I think most companies don't
2 show that because they just net it out of the working
3 interest.

4 BILL HARRIS: So, this is something that's normally
5 done and we just...it's normally...it's normally done in the
6 normal course of...when you have more than one working
7 interest owner in a well. But it's not normally included in
8 an AFE, which are submitted for purposes of forced pooled
9 party trying to figure out whether or not it's to their
10 economic benefit to participate. I mean, I don't know how
11 you'd include it in an AFE unless you take it, you know,
12 twelve times that figure times thirty years or whatever you
13 thought the economic---.

14 TODD TETRICK: Yeah, it's an operational cost.

15 JIM KISER: It's an operational cost.

16 TODD TETRICK: It's an expense.

17 JIM KISER: But they asked me to tack it on there.
18 I don't mean to confuse anybody.

19 BILL HARRIS: Well, I'm just...well---.

20 JIM KISER: I guess, it's a full disclosure thing.
21 They want people to know that if they participate, that's
22 something they're going to be hit with every month.

23 BILL HARRIS: Is this...well, but this is normally
24

--

1 done? I guess I'm just sort of surprised, I guess.

2 TODD TETRICK: That would be taken to consideration
3 and transportation costs, lift cost that would come back
4 against somebody that wanted to participate. They would
5 essentially be transporting in CNR's pipeline. So, that
6 would come off of that.

7 BILL HARRIS: So, each person that chooses to
8 participate and that's...is that what you're saying?

9 JIM KISER: Yeah. Well, they would...it would be
10 netted out of their pro-rata share of the working interest if
11 they elect to participate. It wouldn't be \$350 to each
12 person. If they had 2%, it would be 2%.

13 BILL HARRIS: Oh, okay. Okay.

14 BENNY WAMPLER: There's a lot of cost like he
15 mentioned, transportation costs and others, that are not
16 reflected on the AFE itself. It's just primarily dealing
17 with the well costs.

18 JIM KISER: Drilling and completion basically is
19 what that fee is.

20 BENNY WAMPLER: Other questions from members of the
21 Board?

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further?
24

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1 JIM KISER: We'd ask that the application be
2 approved as submitted, Mr. Chairman.

3 BENNY WAMPLER: Is there a motion?

4 KEN MITCHELL: Motion for approval for agenda item
5 number fifteen.

6 DONALD RATLIFF: I second.

7 BENNY WAMPLER: Motion and second. Any further
8 discussion?

9 (No audible response.)

10 BENNY WAMPLER: All in favor, signify by saying
11 yes.

12 (All members signify by saying yes.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval. The next item
16 on the agenda, is a petition from Columbia Natural Resources,
17 Incorporated for pooling of a conventional gas unit
18 identified as 24902, docket number VGOB-02-09/17-1078. We'd
19 ask the parties that wish to address the Board in this matter
20 to come forward at this time.

21 JIM KISER: Mr. Chairman and members of the Board,
22 Jim Kiser, again, on behalf of Columbia Natural Resources.
23 Our witnesses will again will be Mr. Stover and Mr. Tetrick.
24

1 I'll remind them that they're under oath. Again, we have a
2 revised Exhibit B and a revised AFE for you.

3 (Exhibits are distributed.)

4

5 RONALD STOVER

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. KISER:

8 Q. Mr. Stover, if you'd again state your name
9 for the Board, who you're employed by and in what capacity?

10 A. Ronald Stover, employed by CNR as a contract
11 land man.

12 Q. And you're familiar with CNR's application
13 seeking the establishment of a drilling unit and pooling any
14 unleased interest for CNR well number 24902, which was dated
15 August the 16th, 2002?

16 A. Yes.

17 Q. Does CNR own drilling right in the unit
18 involved here?

19 A. Yes.

20 Q. And does the proposed unit as depicted at
21 Exhibit A, that being the plat to the application, include
22 all acreage within 2500 feet of the proposed well?

23 A. Yes, it does.

24

--

1 Q. Now, prior to filing the application, were
2 efforts made to contact each of the interest owners within
3 the unit and an attempt made to work out a voluntary lease
4 agreement?

5 A. Yes.

6 Q. And at the time we filed the application,
7 what was the interest of CNR within this unit?

8 A. 99.76%.

9 Q. And at that time the unleased interest
10 within the unit was 0.24%?

11 A. Yes.

12 Q. And once again, subsequent to the filing of
13 the application, have you and the land department continued
14 to attempt to reach agreements with unleased interests as
15 listed at the original Exhibit B?

16 A. Yes, we have.

17 Q. And once again, you haven't been successful
18 at obtaining some additional leases?

19 A. Yes.

20 JIM KISER: Once again, I'll attempt to locate
21 those within this revised exhibit for the Board. Page five,
22 we've got Iris Bishop again, two from the bottom; page six,
23 Cora Boyd again; page seven, Eura Dixon, Milton Boyd and
24

1 Lester Boyd; and then Iris Bishop again on the next to the
2 last page.

3 Q. So, the same parties that we obtained
4 additional leases for in the previous well that we just
5 pooled, correct?

6 A. Yes.

7 Q. And what, at this time, at the time of the
8 hearing, what percentage of the unit remains unleased?

9 A. Unleased 0.07%.

10 Q. Okay. Now, we do, again, have the same
11 unknown interest owner in this unit. You testified
12 previously that you made reasonable and diligent efforts to
13 locate that unknown owners?

14 A. Yes.

15 Q. Now, are the address as set out in the
16 Revised Exhibit B to this application the last known
17 addresses for the respondents?

18 A. Yes, it is.

19 Q. And are you requesting the Board to force
20 pool all unleased interest as listed at our new Exhibit B?

21 A. Yes.

22 Q. And, again, are you familiar with the fair
23 market value of drilling rights here and in the surrounding
24

1 area?

2 A. Yes, I am.

3 Q. Could you advise the Board as to what those
4 are?

5 A. A \$5 bonus, five year term and a one-eighth
6 royalty.

7 Q. In your opinion, do the terms you have
8 testified to represent the fair market value of and the fair
9 and reasonable compensation to be paid for drilling rights
10 within this unit?

11 A. Yes.

12 JIM KISER: Mr. Chairman, if we could, in regards
13 to the...again, the elections options afforded the unleased
14 parties as listed in the Revised Exhibit B and the time
15 periods in which they have to exercise those options, the
16 testimony was taken in the hearing just previous to this,
17 that being VGOB docket number 02-09/17-1077 be incorporated
18 for 1078.

19 BENNY WAMPLER: That will be incorporated.

20 Q. And who should be named operator under the
21 force pooling order?

22 A. Columbia Natural Resources.

23 JIM KISER: Nothing further of this witness at this
24

--

1 time, Mr. Chairman.

2 BENNY WAMPLER: Questions from members of the
3 Board?

4 BILL HARRIS: Just a point of clarification, the
5 Exhibit B that was handed out, I have two pages that appear
6 to be the same. I think the fourth page, Janice Fay Deel is
7 at the top of both. But I don't see any difference. Is that
8 just an error in putting that together?

9 JIM KISER: It must be because mine doesn't---.

10 RONALD STOVER: Yeah, mine doesn't either.

11 JIM KISER: Secretarial error.

12 BILL HARRIS: Okay. I just didn't know if---.

13 JIM KISER: I'm sorry.

14 BILL HARRIS: ---I'd missed something on tracts or
15 something like that.

16 JIM KISER: This one doesn't either. Let me give
17 you this one.

18 BILL HARRIS: Okay. Well, no, I can just---.

19 JIM KISER: Okay.

20 BILL HARRIS: ---toss one of these out. But, okay,
21 I just wondered, like I said, if I had just missed something.
22 No other questions.

23 BENNY WAMPLER: Any other questions?

24

1 (No audible response.)

2 BENNY WAMPLER: Call your next witness.

3

4 TODD TETRICK

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. KISER:

7 Q. Mr. Tetrick, again, you're employed by CNR
8 in what capacity?

9 A. Engineer.

10 Q. And do your responsibilities include
11 the...this particular prospect and the other prospects in
12 Virginia?

13 A. Yes.

14 Q. And you're familiar with the proposed
15 development of this particular well?

16 A. Yes.

17 Q. And what is the total depth of this proposed
18 well?

19 A. 5700 feet.

20 Q. And is CNR requesting the force pooling of
21 conventional gas reserves, not only to include the designated
22 formations, but any other formations excluding coal
23 formations which may be between those formations designated
24

--

1 from the surface to the total depth drilled?

2 A. Yes.

3 Q. Estimated reserves for this unit?

4 A. 400,000,000 cubic feet.

5 Q. Again, you're familiar with the well costs

6 for the proposed well?

7 A. Yes.

8 Q. And a revised AFE been reviewed, signed and

9 submitted to the Board today?

10 A. Yes.

11 Q. And this AFE was prepared by an engineering

12 department knowledgeable in the preparation of AFEs and

13 knowledgeable in regard to well costs in this area?

14 A. Yes.

15 Q. In your professional opinion, does this AFE

16 represent a reasonable estimate of the well costs?

17 A. Yes.

18 Q. And could you state for the Board both the

19 dry hole costs and the completed well costs for 24902?

20 A. The dry hole \$234,111, completed well costs

21 \$422,381.

22 Q. And, again, does the increase in the cost

23 over the AFE that was initially submitted with the

24

1 application, is it again represented by the additional land
2 and lease cost?

3 A. Yes.

4 Q. And does your AFE...do your costs anticipate
5 a multiple completion?

6 A. Yes.

7 Q. And in your professional opinion, would the
8 granting of this application be in the best interest of
9 conservation, the prevention of waste, and the protection of
10 correlative rights?

11 A. Yes.

12 JIM KISER: Nothing further of this witness at this
13 time, Mr. Chairman.

14 BENNY WAMPLER: Questions from members of the
15 Board?

16 BILL HARRIS: Let me just ask this, I'm going to
17 quit asking questions. Always say that, though.

18 BENNY WAMPLER: Mr. Harris.

19 BILL HARRIS: The well plan...that power
20 transmission, I don't remember seeing those on well plats
21 we've had before. Is that of any importance or is that just
22 for information purposes, I mean, to the Board, I guess I'm
23 asking?

24

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1 TODD TETRICK: The surveyors probably put that on
2 there because---.

3 BILL HARRIS: Just because---.

4 TODD TETRICK: ---it was put on the reclamation
5 plan because it's a manmade feature that we address in our
6 permit...well permit. So, that's probably why it's in there.

7 BILL HARRIS: But that should have no bearing on
8 what---?

9 TODD TETRICK: No.

10 BILL HARRIS: Okay, fine. Thank you.

11 BENNY WAMPLER: Would you restate your estimated
12 total depth?

13 TODD TETRICK: It was 5700 feet.

14 BENNY WAMPLER: I noticed on both of those, the
15 last one and this one too, even the revised one is different
16 than what's showing on the---?

17 TODD TETRICK: The reason for that would be that
18 when the original AFE was done, there was a certain depth put
19 in. If the well was moved at all, the depth changed. So,
20 that is an error.

21 BENNY WAMPLER: Thank you. Any other questions?

22 JIM KISER: But, I think, in our application it
23 does say 5700 feet.

24

1 SHARON PIGEON: Uh-huh.

2 BENNY WAMPLER: Yeah. It was just different on

3 the---?

4 JIM KISER: On the AFE, yeah,

5 BENNY WAMPLER: Do you have anything further?

6 JIM KISER: We'd ask...Mr. Chairman, we'd ask that

7 the application be approved as submitted.

8 BENNY WAMPLER: Is there a motion?

9 BILL HARRIS: Mr. Chairman, I move that we approve

10 the application for the docket number ending in 1078. I

11 think that's the one...yes.

12 DONALD RATLIFF: Second.

13 BENNY WAMPLER: Motion and second. Any further

14 discussions?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying

17 yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. Thank you very

22 much. One thing that's helpful when you come back...I mean,

23 you did very good job in leasing and everything, but if

24

1 you'll number the pages like in the exhibits and things like
2 that, it's easier to follow. That's always helpful. I
3 appreciate it.

4 JIM KISER: Well, they are numbered but they're not
5 numbered at the bottom. It was emailed.

6 BENNY WAMPLER: Okay.

7 RONALD STOVER: That's that computer glitch.

8 JIM KISER: Yeah. And we will correct it.

9 BENNY WAMPLER: Did you make a deal with Mr.
10 Swartz?

11 JIM KISER: Yeah, he's...no, I hadn't made any
12 deals with Mr. Swartz.

13 (Laughs.)

14 JIM KISER: He's up next, I guess.

15 MARK SWARTZ: I think we can---.

16 JIM KISER: Do you want to go ahead and do those
17 three?

18 MARK SWARTZ: Yeah. Maybe you need to think about
19 this while I do that. I think you and I can stipulate that
20 the Board can enter their standard order on the three
21 poolings with the one change that you want based on the
22 applications and records submitted, without testimony. Why
23 do we need to do that? Think about it. We'll do these
24

1 escrows.

2 JIM KISER: Okay.

3 MARK SWARTZ: And we may be able to take care of
4 three as well.

5 BENNY WAMPLER: Does anybody need a break?

6 MASON BRENT: I just had mine.

7 (Laugh.)

8 BENNY WAMPLER: The next item on the agenda is a
9 petition from Buchanan Production Company for a coalbed
10 methane unit identified as BB-8 in the Oakwood Coalbed
11 Methane I Field order, I'm going with item twenty on your
12 agenda just so that you know, for amendment of prior pooling
13 order, disbursement from escrow regarding tract 2D and
14 authorizing for direct payment of royalties. This is docket
15 number VGOB-90-10/10-0033-01. We'd ask the parties that wish
16 to address the Board in this matter to come forward at this
17 time. Mr. Swartz, you'd also asked to combine twenty,
18 twenty-one and twenty-two, is that still---?

19 MARK SWARTZ: Yes, Mr. Chairman. Les and Anita and
20 I are here on these...on twenty, twenty-one and twenty-two if
21 you could combine those because they're all similar.

22 BENNY WAMPLER: I'll go ahead and call those.

23 Twenty-one, a petition from Buchanan Production Company for a
24

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1 coalbed methane unit identified as AA-8. This is also for
2 amendment of a prior pooling order and disbursement of the
3 funds from tract 1A, 1D, 1E and 1F authorizing direct payment
4 of royalties. This is docket number VGOB-90-10/10-0032-01.
5 Also, a petition from Buchanan Production Company for a
6 coalbed methane unit identified as Z-8 for amendment of a
7 prior pooling order and disbursement from escrow regarding
8 tracts 1A and 1B and authorizing direct payment of royalties,
9 docket number VGOB-91-04/30-0114-01. We'd ask the parties
10 that wish to address the Board in these matters to come
11 forward at this time.

12 MARK SWARTZ: Also, be Anita Tester, Les Arrington,
13 Mark Swartz on those two.

14 (Exhibits are distributed.)

15 MARK SWARTZ: Mr. Chairman, these are disbursement
16 applications, but they are a little different than the
17 typical disbursement. We have passed out to you all return
18 receipts for mailing and the proof of publication. The
19 reason that we mailed all of the respondents and...that we
20 have...that we previously pooled and also published is
21 because all three of these units have been remapped
22 minimally, but their percentages have changed. Before, you
23 know, we could solicit a change in the...in the plat and the

24

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1 associated percentages, you know, we had to give notice to
2 everybody. So, one of the things that we're asking for the
3 Board to do today, it will only take a moment with Les and
4 Anita, is to approve the new plats, which are revised
5 slightly from the originals and the new percentages; and then
6 secondly, and we'll get to this with Anita in a moment, we
7 have a split agreement between some of the folks involving
8 some of the tracts in each of these three units and we'd like
9 to have a disbursement from escrow and ability to pay
10 directly in the future. But let's start with the mapping
11 issue.

12

13

14

15 LESLIE K. ARRINGTON

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. SWARTZ:

18 Q. Les, I'm just going to remind you're still
19 under oath.

20 A. Yes.

21 Q. And could you state your name for us,
22 please?

23 A. Leslie K. Arrington.

24

--

1 Q. Would you tell the Board what happened here
2 with regard to the mapping and the percentages?

3 A. As we went back to do...to get ready to do
4 the, I'll call it a royalty split, we noticed that we needed
5 to do some additional mapping work. We revised the map
6 accordingly. The lines didn't change a whole lot. The
7 one...one thing that...it was one tract boundary that we left
8 out. It was the same people. But the boundary is in there
9 now. And we adjusted the percentages and acreages
10 accordingly. So, I don't think there will be any problems
11 with any of the owners because they're all still in it. The
12 boundaries just changed somewhat.

13 BENNY WAMPLER: The map...you're talking about the
14 map that was in the application that we have?

15 MARK SWARTZ: Right.

16 LESLIE K. ARRINGTON: Yes. That's the revised map.

17 Q. And then the tract identification would also
18 be revised to reflect---?

19 A. They were.

20 Q. ---the adjusted percentages?

21 A. Yes, it was.

22 Q. And then the Exhibit B-3, although we've got
23 the same folks, the percentages and acreages will change

24

--

1 slightly?

2 A. It was.

3 Q. And that would be true of all three them?

4 A. Yes, it is.

5 Q. And the new maps and the new tract IDs and

6 the new percentages are what's attached to the three

7 applications?

8 A. Yes, it is.

9 Q. Okay. Have some of the folks in these three

10 units entered into a split agreement?

11 A. Yes, they have.

12 Q. And who are those people?

13 A. You'll see in each one of them, it will have

14 an Exhibit EE. Most of the time it's going to be Harrison

15 Wyatt and Lonso Hodge, and then I think there's another

16 party, Robert Rash. And all those names and information is

17 listed in the Exhibit EE.

18 Q. In Z-8, there's also a Mr. Robert Rash?

19 A. Yes, it is.

20 Q. And have those folks agreed to divide the

21 royalty in half?

22 A. Yes, they have.

23 Q. And they have written agreements to that

24

1 effect?

2 A. Yes, we do have.

3

4 ANITA TESTER

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7 Q. Anita, have you gone back to try and make
8 some calculations here to allow this to happen?

9 A. Yes.

10 Q. Do you want to tell the Board what you've
11 done and what the exhibits that you've shared with them today
12 mean?

13 A. Okay. First, I gather the information from
14 I.L.M.. And---?

15 Q. Who is I.L.M.? I mean, what do they do---?

16 A. Our lease management.

17 Q. What do they do for you guys?

18 A. They take care of paying our royalties into
19 the escrow account.

20 Q. Okay.

21 A. And so they sent me a list of the check
22 totals for each account and then I try to balance it with the
23 ledger sheets from the bank. And for all three accounts, for

24

--

1 these accounts, they were started in '93. There were some
2 ledger sheets missing. So, I couldn't go back from the very
3 beginning of the account and get interest figures.

4 Q. Now, who's ledger sheets were missing, yours
5 or the banks?

6 A. The banks.

7 Q. Okay.

8 A. First Virginia.

9 Q. Okay. And have...is that something that
10 you've discussed with Harrison Wyatt and Lonso Hodge and Mr.
11 Rash?

12 A. Yes.

13 Q. And what solution has everyone agreed to?

14 A. Well, they have decided to take their
15 percentage of escrow, they've signed an agreement saying that
16 they will agree to take their percent of escrow, you know,
17 because we can't balance the account. You know, the bank
18 shows more than what we show. We believe that's because of
19 interest. That's the only reason I can't balance it. I've
20 talked to Bob. We've looked through his information at his
21 office and we just can't find it. But it's from the older
22 '93 months.

23 Q. Okay, do the---?

24

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1 MASON BRENT: The bank shows more in the account
2 than---?
3 ANITA TESTER: Yeah, all the accounts show more.
4 MASON BRENT: ---you do?
5 ANITA TESTER: Uh-huh.
6 MASON BRENT: So, which are you paying, the more or
7 the less?
8 ANITA TESTER: We're paying...what we're going to
9 do, let this...well, this...that I handed out here, we're
10 going to take the bank balance and take their percent of
11 escrow and pay it that way.
12 MASON BRENT: Okay.
13 ANITA TESTER: Which is really the only---.
14 MASON BRENT: So, you're going to use...you're
15 going to use the bank's balance?
16 MARK SWARTZ: Right.
17 ANITA TESTER: Right. And we've showed this to the
18 people involved in the royalty splits and they...we've got
19 copies of the agreements where they signed saying that that's
20 okay with them. We'll just go by the percentage of what's in
21 there.
22 MASON BRENT: Right. Right.
23 MARK SWARTZ: Another reason that we noticed
24

1 everybody is potentially other people in the unit who have
2 escrowed funds would have a dog in the hunt here if they
3 didn't approve that this was a reasonable way to solve this
4 problem. You know, today would be the day for them to argue
5 about that.

6 MASON BRENT: Well, that was the question I was
7 going to ask, is well did you receive any response from any
8 of these other folks with the second name?

9 ANITA TESTER: No, but---.

10 MARK SWARTZ: I mean, other than the people that
11 are splitting the royalty.

12 MASON BRENT: Other than the people that are
13 splitting. Did anybody call in and have an objection to the
14 revised plat?

15 ANITA TESTER: No, the only...we had some calls
16 from the Arms heirs because they were interested in doing the
17 royalty splits themselves. A lot of them were here last
18 month. But other than...as far as objections, no.

19 MASON BRENT: Okay.

20 Q. Now, what is in terms of money to come out
21 of escrow that you are proposing, and just take each...each
22 unit at a time, you know, start with AA-8 and then Rash and
23 Hodge claims?

24

--

1 A. Okay, you mean---?

2 Q. Right. What should the disbursement orders
3 say?

4 A. Okay, for AA-8, we're going to disburse
5 tracts 1A and each owner will receive 18.50344%, which that
6 would be Harrison Wyatt and Robert Rash. And Tract 1D would
7 be Harrison Wyatt and Lonso and Nancy Hodge and each owner
8 would get 4.28303%. Tract 1E is also Lonso and Nancy Hodge
9 and that would be 12.13525% of escrow. And tract 1F, Lonso
10 and Nancy Hodge, 3.57...3.53788% to each owner.

11 Q. And then the dollars that that translates to
12 are in the farthest right hand column for each owner coming
13 out of escrow with regard to AA-8, correct?

14 A. Uh-huh.

15 Q. Have you done the same thing with regard to
16 BB-8?

17 A. Yes.

18 Q. Okay, and which tracts are going to be
19 disbursed out BB-8?

20 A. Just 2D.

21 Q. Okay. So, the only thing that the
22 disbursement order would reflect there would be what percent
23 and what dollars?

24

1 A. 2.02820%...well, these balances are as of
2 September the 30th. So---.

3 Q. We'll get to that.

4 A. Okay.

5 Q. So, it would be...as of that date coming out
6 of BB-8 would be an allocation of 2.02820%, which equals how
7 much dollars to each of the parties that have a split
8 agreement?

9 A. \$1,421.30.

10 Q. And then what...what tract or tracts are
11 being disbursed with regard to unit Z-8?

12 A. It will be 1A and 1B.

13 Q. And the percentages and the dollars to each
14 owner from those two tracts would be what?

15 A. Okay, for tract 1A Harrison Wyatt and Robert
16 Rash it will be 38.05317%, which equals \$15,994.13 per owner;
17 and for 1B it would be Harrison Wyatt, Lonso and Nancy Hodge,
18 7.23725%, which is \$3,041.89 per owner.

19 Q. Okay. Now, these numbers are through what
20 date?

21 A. September the 30th.

22 Q. So, if there is money deposited after
23 September the 30th, would it be split on the same percentage
24

1 or would you have to recalculate the percentage?

2 A. No, the percentages would stay the same.

3 Q. Okay, so this percentage can be re...reused
4 by the bank to allocate money that the bank might receive
5 after September, correct?

6 A. Yes.

7 Q. And are you also asking that when the Board
8 enters the order with regard to these disbursements, that the
9 order provide that as soon as the bank, or as soon as the
10 operator receives that order, they can start paying these
11 people directly?

12 A. Yes.

13 Q. Is there anything else we need to tell the
14 Board about this?

15 BENNY WAMPLER: Go over AA-8 again. Is it all
16 tracts in AA-8?

17 ANITA TESTER: No, it's just 1A, 1D, 1E and 1F.

18 BENNY WAMPLER: 1D, 1E and 1F, okay. Thank you.

19 ANITA TESTER: Each one of the applications have
20 which tracts are being disbursed on the top...top left hand
21 corner.

22 (Mr. Swartz and Ms. Tester confer.)

23 MARK SWARTZ: As long as we're...if there's not an
24

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1 objection, Mr. Chairman, there are four other escrow
2 disbursement matters on the docket today. Three of which we
3 need to continue because we don't have the numbers. But the
4 fourth one we could actually...we might as well since we're
5 here, we have...we're ready to do the disbursement on P-42.
6 But we do not...we have not completed the work on the other
7 three. P-42 is docket number thirty-four.

8 BENNY WAMPLER: You're ready to do that one.

9 MARK SWARTZ: Yeah.

10 BENNY WAMPLER: Let me ask a question on this. Go
11 over what changed on the maps again for me.

12 LESLIE K. ARRINGTON: The lines actually...some of
13 the lines changed.

14 BENNY WAMPLER: None of the parties changed?

15 LESLIE K. ARRINGTON: No. None of the parties.
16 One of the reasons we remapped was fearful one of the lines
17 would cause...when we were looking at it, it would get over
18 into another unit. But it did not. So, we're okay as far as
19 all of our notice issues. Again, that's one reason we felt
20 it was going to be best to notice all parties to let them see
21 what we had done.

22 BENNY WAMPLER: Was that the case in all three or
23 just BB-8 as far as the map changed?

24

--

1 MARK SWARTZ: No, I think the maps changed in all
2 three.

3 LESLIE K. ARRINGTON: The maps changed in all three
4 of them.

5 BENNY WAMPLER: That's what I---.

6 LESLIE K. ARRINGTON: It's just---.

7 MARK SWARTZ: Right.

8 LESLIE K. ARRINGTON: ---moved somewhat. I'm
9 sorry.

10 BENNY WAMPLER: That's what I thought. I was just
11 clarifying for the record.

12 MARK SWARTZ: There was a missing line in one.

13 BENNY WAMPLER: Okay.

14 MARK SWARTZ: But they moved...and, I mean, we said
15 in the application, and this is true, but with regard to the
16 one missing line, obviously, that's an additional fact, but
17 initially this stuff...this was mapped by Oxy and it was
18 paper maps with pencil. Now, this is all CAD maps without
19 pencil lines. Just redrawing that stuff changes the
20 percentages. So, when they went back to try and get the
21 numbers right to make the disbursements, they started...they
22 discovered they weren't exactly congruent in some instances
23 and in one case, you know, they were missing a line and we
24

1 just needed to straighten that out. So...and periodically we
2 have been back here. We haven't been back here for a while.
3 But occasionally we come back just to fix percentages.

4 BENNY WAMPLER: Sure.

5 MARK SWARTZ: I know Benny remembers. But it has
6 been a while. But every once in a while there are
7 just...there's enough of a difference between the mapping
8 technics that the percentages change where we have to deal
9 with them.

10 BENNY WAMPLER: Okay, any questions from members of
11 the Board on these three?

12 (No audible response.)

13 BENNY WAMPLER: I'm going to go ahead and deal with
14 them. Do you have anything further, Mr. Swartz, on these?

15 MARK SWARTZ: No.

16 BENNY WAMPLER: Is there a motion?

17 KEN MITCHELL: Motion for approval, Mr. Chairman,
18 of twenty, twenty-one and twenty-two of disbursements.

19 BENNY WAMPLER: I have a motion for approval. Is
20 there a second?

21 MASON BRENT: Second.

22 BENNY WAMPLER: Second. Any further discussion?

23 (No audible response.)

24

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1 BENNY WAMPLER: All in favor, signify by saying
2 yes.
3 (All members signify by saying yes.)
4 BENNY WAMPLER: Opposed, say no.
5 (No audible response.)
6 BENNY WAMPLER: You have approval.
7 MARK SWARTZ: Thank you.
8 BENNY WAMPLER: Now, you're going to move to
9 thirty-four and get that---?
10 MARK SWARTZ: If you don't mind.
11 BENNY WAMPLER: ---disbursement? Okay, the next
12 item that we'll call will be the Board's docket number...or
13 item number thirty-four...agenda item thirty-four. A
14 petition from Pocahontas Gas Partnership for a coalbed
15 methane unit identified as P-42, for an amendment of prior
16 pooling order disbursement from escrow regarding tract 2 and
17 authorizing for direct payment of royalties, docket number
18 VGOB-93-03/16-0341-01. We'd ask the parties that wish to
19 address the Board in this matter to come forward at this
20 time.
21 MARK SWARTZ: Mark Swartz and Anita Tester.
22 BENNY WAMPLER: The record will show there are no
23 others. You may proceed.
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ANITA TESTER

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, have you done the work to account for the escrow funds and the disbursement that is proposed with regard to P-42?

A. Yes.

Q. Okay, what tract are we talking about a disbursement coming out of?

A. Tract 2.

Q. Is that the only tract that's escrowed?

A. Yes.

Q. So, that will effectively close this escrow account entirely?

A. Yes.

Q. Tell the Board what you...what you did and what your spreadsheet represents.

A. Okay, as with the others, I gather the information from I.L.M., which they send me the check amounts that they sent to the bank. I verify that with the ledger sheets from First Virginia and First Union. And the accounts, I balance with what the bank has is a balance of

1 \$55,023.25.

2 Q. As of when?

3 A. As of September the 30th.

4 Q. Okay. And is that entire amount going to
5 come out?

6 A. Yes.

7 Q. Okay, the folks who have signed a split
8 agreement, are they going to divide that 50/50?

9 A. Yes.

10 Q. Okay. And who are the people that are going
11 to receive those funds?

12 A. It's the Hurt McGuire heirs and Reserve Coal
13 Properties.

14 Q. And the who?

15 A. Reserve Coal Properties.

16 Q. Okay. And is there an agreement that they
17 would divide between the Hurt McGuire heirs and Reserve Coal
18 50/50?

19 A. Yes.

20 Q. Okay, so each party would receive one-half
21 of the \$55,023.25?

22 A. Yes.

23 Q. And would it be true that if money is
24

--

1 received by the bank between the entry of the order and
2 September 30th that that...those funds would also be subject
3 to the agreement and be split 50/50?

4 A. Yes.

5 Q. And are you requesting that the Board's
6 order authorize the operator to pay royalties in the future
7 directly to these folks based on their split agreement?

8 A. Yes.

9 MARK SWARTZ: That's all I have with regard to P-
10 42.

11 BENNY WAMPLER: Questions from members of the
12 Board?

13 (Board confers among themselves.)

14 BENNY WAMPLER: That is through 9/30/02?

15 ANITA TESTER: Uh-huh.

16 BENNY WAMPLER: Okay. The total?

17 ANITA TESTER: Yes.

18 BENNY WAMPLER: Okay. Other questions?

19 (No audible response.)

20 BENNY WAMPLER: Do you have anything further?

21 MARK SWARTZ: No, I don't.

22 BENNY WAMPLER: Is there a motion?

23 MASON BRENT: Mr. Chairman, I move that we grant
24

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1 this application to disburse.

2 DON HALL: I second.

3 BENNY WAMPLER: Motion and second. Any further
4 discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor, signify by saying
7 yes.

8 (All members signify by saying yes.)

9 BENNY WAMPLER: Opposed, say no.

10 (No audible response.)

11 BENNY WAMPLER: You have approval. Thank you.

12 MARK SWARTZ: Thank you. Lets see---.

13 BENNY WAMPLER: Tell me again on your housekeeping.

14 MARK SWARTZ: Okay, we...with regard to...with
15 regard to thirty-three, thirty-five and thirty-six, and I
16 think Mr. Wilson's aware of this, we got interest from the
17 bank...further interest numbers as of last Friday. And in
18 checking that, determined that some interest numbers are
19 clearly missing. So, we don't have the rest of the data and
20 we probably need just to continue---.

21 BENNY WAMPLER: Continue?

22 MARK SWARTZ: ---this until next month. I mean, it
23 looks like we're going to get the answers on this one...on
24

1 these three. But if we could continue thirty-three, thirty-
2 five and thirty-six until next month, that would be great. I
3 think Mr. Kiser and I have an agreement that would avoid a
4 hearing on---.

5 BENNY WAMPLER: Do you need time to resolve that?

6 MARK SWARTZ: I think we have it...why don't you
7 just go get him. I think...think we've resolved it, which
8 would take care of twenty-three, twenty...docket numbers
9 twenty-three, twenty-four and twenty-five. I think what Jim
10 and I have agreed on behalf of our clients in regard to
11 twenty-three, which is unit K-75, item twenty-four, which is
12 L-76, item twenty-five, which M-76 is that Sharon could
13 prepare just a traditional order based on the exhibits that
14 we've submitted for each...for all three of these units that
15 would give CNR the traditional election rights so that they
16 have an opportunity to participate if they want to. The only
17 change that would be required from what we normally see from
18 you would be that you provide that CNR's payment, if they
19 participate, is due...how many days from drilling...to
20 commencement of drilling?

21 JIM KISER: Uh---.

22 MARK SWARTZ: Thirty days or forty-five days from
23 commencement of drilling?

24

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1 JIM KISER: Subsequent to commencement of drilling?
2 MARK SWARTZ: From...from after.
3 JIM KISER: From after?
4 MARK SWARTZ: Right. So, you have to elect as
5 normal---.
6 JIM KISER: Right.
7 MARK SWARTZ: ---but then pay---.
8 JIM KISER: Forty-five days would be great.
9 MARK SWARTZ: Okay. So, just make that change.
10 You know, it's the same period to elect, but their
11 payment---.
12 JIM KISER: Same thirty day election period, but
13 normally...there is no regulation controlling when the
14 participating party has to pay their fair share. Normally,
15 we do that through testimony and ask that it's paid in
16 advance. In this particular case, we're asking that the
17 order state that that money be paid into escrow forty-five
18 days after the commencement of drilling.
19 MARK SWARTZ: And two of the three wells, just for
20 your heads up, have been drilled. So, it's only---.
21 JIM KISER: Oh, really?
22 MARK SWARTZ: It's only going to affect the third.
23 But...so, get your checkbook out.

24

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1 (Laugh.)

2 SHARON PIGEON: It's going to affect---.

3 MARK SWARTZ: But they need to know that.

4 JIM KISER: Oh, we didn't know that.

5 MARK SWARTZ: Yeah. You're welcome. Okay, but I

6 think...is that...is that our agreement?

7 JIM KISER: Yes.

8 MARK SWARTZ: Okay. Now, if you're---.

9 BENNY WAMPLER: You withdrew seventeen, eighteen

10 and nineteen.

11 JIM KISER: That was our application for pooling.

12 MARK SWARTZ: That was his application.

13 BENNY WAMPLER: I understand.

14 JIM KISER: We didn't have, you know, the right

15 exhibits and we were trying to make sure that we protected

16 our interest and we were taking a stab at that. Then when

17 they came in and filed their applications to pool the same

18 three units, they're essentially giving us the relief that we

19 were going to request anyway and we're fine with Mr. Swartz's

20 draft order with the exception of should we elect to

21 participate. We'd like to change the time in which we have

22 to pay those costs.

23 BOB WILSON: Yeah, Mr. Chairman.

24

--

1 BENNY WAMPLER: Mr. Wilson.

2 BOB WILSON: The...this is a bit strange because we
3 received the application for pooling initially from CNR---.

4 BENNY WAMPLER: Right.

5 BOB WILSON: ---and we assigned it a docket number
6 at that time. At that time, it was to be heard, I believe,
7 in September. After which, Consol interest filed to pool the
8 same units and we issued an 01 on to the end of each of these
9 docket numbers indicating that...anticipating that the Board
10 would have handled it already and they would either be
11 repooling it or pooling it. So, what we would like to do now
12 is drop that 01 designation from this and just have each of
13 these...and in 1079, for K-75, 1080 for L-76 and 1081 for M-
14 76 without any 01s indicating multiple considerations.
15 Anybody confused?

16 BENNY WAMPLER: Mr. Kiser and Mr. Swartz, do you
17 understand that?

18 MARK SWARTZ: Yes.

19 JIM KISER: Yes.

20 MARK SWARTZ: That's fine with us.

21 BILL HARRIS: And when...well, just as---.

22 MARK SWARTZ: They're dropping the 01.

23 BILL HARRIS: I know these others were withdrawn.

24

1 But do you all not keep records that they were actually
2 submitted? I mean, does that...I mean, they're different
3 names. I guess...I guess I'm asking about record keeping for
4 you all, I guess.

5 BOB WILSON: Normally, we will issue a docket
6 number to the first consideration---.

7 BILL HARRIS: Right.

8 BOB WILSON: ---of any unit for pooling. If that
9 unit is repooled or actions taken inside that unit, then
10 we'll put an 01 on the end of that to indicate---.

11 BILL HARRIS: Right. I understand that.

12 BOB WILSON: ---any subsequent thing. We do keep a
13 record. But we'll keep the records of both filings in this
14 file.

15 BILL HARRIS: Okay.

16 BOB WILSON: But we will only assign it---.

17 BENNY WAMPLER: Just have one number.

18 BILL HARRIS: Okay.

19 BOB WILSON: ---the initial number.

20 BILL HARRIS: Okay.

21 BENNY WAMPLER: Because it really messes things up
22 for later on tracking.

23 BILL HARRIS: Right. Yeah.

24

--

1 BOB WILSON: It will have us looking at things that
2 aren't there if we do that.

3 BILL HARRIS: Yes. I understand. Yeah. Yeah.

4 BENNY WAMPLER: Okay, is everybody clear?

5 MARK SWARTZ: That's it. Which two were drilled,
6 Les? The K is not drilled, right? L---.

7 LESLIE K. ARRINGTON: K-75 and M-76.

8 MARK SWARTZ: Oh, they are drilled.

9 LESLIE K. ARRINGTON: K-75 and M-76.

10 JIM KISER: K and M are drilled.

11 LESLIE K. ARRINGTON: L-76 is not.

12 BENNY WAMPLER: I think we need a Board approval.
13 Is there a motion?

14 KEN MITCHELL: I make a motion, Mr. Chairman, for
15 that...for approval.

16 BENNY WAMPLER: Okay. Motion, is there a second?

17 BILL HARRIS: Excuse me. Can I ask what the motion
18 is?

19 MASON BRENT: Yeah.

20 BILL HARRIS: To change those and make the
21 adjustment in those numbers, is that what we're---?

22 BENNY WAMPLER: With the---.

23 MARK SWARTZ: And to enter it as essentially agreed
24

1 orders pooling those three.

2 BENNY WAMPLER: Yes. An agreed order pooling with
3 the addition that Mr. Kiser and Mr. Swartz agreed to. I
4 think Ms. Pigeon has the---.

5 MARK SWARTZ: And the renumbering.

6 BENNY WAMPLER: ---language and the renumbering
7 that Mr. Wilson suggested. Is that---?

8 KEN MITCHELL: Yes, sir. That is correct.

9 MASON BRENT: The only two parties to this pooling
10 are CNR and Consol?

11 BENNY WAMPLER: Would you answer that question?

12 BOB WILSON: Yes.

13 JIM KISER: I'm sorry.

14 MASON BRENT: The two parties involved in this
15 pooling are---?

16 BENNY WAMPLER: The only two parties.

17 JIM KISER: Right.

18 BENNY WAMPLER: ---Consol and CNR?

19 JIM KISER: Correct.

20 MASON BRENT: I'm recusing myself.

21 BENNY WAMPLER: I understand. I've got a motion on
22 the floor. Is there a second?

23 DONALD RATLIFF: Second.

24

--

1 BENNY WAMPLER: Second. Any further discussion?
2 (No audible response.)
3 BENNY WAMPLER: All in favor, signify by saying
4 yes.
5 (All members signify by saying yes.)
6 BENNY WAMPLER: Opposed say no.
7 (No audible response.)
8 BENNY WAMPLER: You have approval.
9 MARK SWARTZ: Thank you all very much.
10 BENNY WAMPLER: Thank you. Is everybody okay to
11 keep going? Do you need a break?
12 MASON BRENT: Keep going.
13 BENNY WAMPLER: The next item on the agenda is a
14 petition from Equitable Production Company for pooling of a
15 coalbed methane unit under the Nora Coalbed Gas Field order
16 identified as VC-505181, docket number VGOB-02-10/15-1084.
17 We'd ask the parties that wish to address the Board in this
18 matter to come forward at this time.
19 JIM KISER: Mr. Chairman and Board members, Jim
20 Kiser on behalf of Equitable Production Company. Our witness
21 in this matter will be Mr. Don Hall. I'll remind him that
22 he's been previously sworn.
23 (Wait until room is clear.)
24

1 BENNY WAMPLER: The record will show there are no
2 others. You may proceed. I was just waiting until it
3 cleared out.

4 JIM KISER: Oh, that's okay.

5

6

7

DON HALL

8

DIRECT EXAMINATION

9 QUESTIONS BY MR. KISER:

10 Q. Mr. Hall, if you'd state your name for the
11 record, who you're employed by and in what capacity?

12 A. My name is Don Hall. I'm employed by
13 Equitable Production Company as district landman.

14 Q. And do your responsibilities include the
15 land involved in this unit and in the surrounding area?

16 A. They do.

17 Q. Are you familiar with Equitable's
18 application seeking a pooling order for EPC well number VC-
19 505181, dated September the 11th, 2002?

20 A. Yes.

21 Q. Is Equitable seeking to force pool the
22 drilling rights underlying the unit as depicted in Exhibit A,
23 that being the plat to the application?

24

--

1 A. We are.

2 Q. Does Equitable own drilling rights in the
3 unit here?

4 A. We do.

5 Q. Now, prior to filing the application, were
6 efforts made to contact each of the interest owners within
7 the unit and an attempt made to work out a voluntary lease
8 with all the owners?

9 A. Yes.

10 Q. What is the interest of Equitable within the
11 gas estate in the unit?

12 A. We have 99.71% leased.

13 Q. And the interest in the coal estate?

14 A. The same, 99.71%.

15 Q. Okay. Are you familiar with the ownership
16 of drilling rights of parties other than Equitable underlying
17 this unit?

18 A. Yes.

19 Q. And what is that?

20 A. .29%

21 Q. We don't have any unknown owners?

22 A. No.

23 Q. In your professional opinion, was due
24

1 diligence exercised to locate each of the respondents named
2 in Exhibit B?

3 A. Yes.

4 Q. And are the addresses set out in Exhibit B
5 to the application the last known addresses for the
6 respondents?

7 A. Yes.

8 Q. Are you requesting this Board to force pool
9 all unleased interest listed in Exhibit B?

10 A. We are.

11 Q. Now, are you familiar with the fair market
12 value of drilling rights in the unit here and in the
13 surrounding area?

14 A. Yes.

15 Q. Could you advise the Board as to what those
16 are?

17 A. A \$5 dollar bonus, a five year term and one-
18 eighth royalty.

19 Q. In your opinion, do these terms you have
20 testified to represent the fair market value of and the fair
21 and reasonable compensation to be paid for drilling rights
22 within this unit?

23 A. They do.

24

--

1 JIM KISER: Mr. Chairman, as to the election
2 options afforded the remaining unleased parties and their
3 time periods in which to make those elections, we'd ask that
4 the testimony taken previously back in VGOB docket number 02-
5 09/17-1075, which was Equitable's first force pooling today,
6 be incorporated at this time.

7 BENNY WAMPLER: That will be incorporated.

8 Q. Okay. Now, Mr. Hall, do we have a
9 conflicting claimant situation here?

10 A. No, we have...the unleased party owns the
11 coal, oil and gas.

12 Q. Okay. So, we don't need to establish an
13 escrow account?

14 A. No.

15 Q. And who should be named the operator under
16 the force pooling order?

17 A. Equitable Production Company.

18 Q. And what is the proposed depth of this well?

19 A. 2405 feet.

20 Q. And the estimated reserves of the unit?

21 A. 900,000,000 cubic feet.

22 Q. Now, are you familiar with the well costs
23 for the proposed well?

24

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1 A. Yes.

2 Q. Has an AFE been reviewed, signed and
3 submitted to the Board?

4 A. It has.

5 Q. Was the AFE prepared by an engineering
6 department knowledgeable in the preparation of AFEs and
7 knowledgeable in regard to well costs in this area?

8 A. Yes.

9 Q. Does it, in your professional opinion,
10 represent a reasonable estimate of the well costs?

11 A. It does.

12 Q. Could you state for the Board both the dry
13 hole costs and the completed well costs for 505181?

14 A. The dry hole costs would be \$92,208, and the
15 completed well costs would \$222,004.

16 Q. Do these costs anticipate a multiple
17 completion?

18 A. They do.

19 Q. Does your AFE include a reasonable charge
20 for supervision?

21 A. Yes.

22 Q. In your professional opinion, would the
23 granting of this application be in the best interest of
24

1 conservation, the prevention of waste, and the protection of
2 correlative rights?

3 A. It would.

4 JIM KISER: Nothing further of this witness at this
5 time, Mr. Chairman.

6 BENNY WAMPLER: Questions from members of the
7 Board?

8 BILL HARRIS: Mr. Chairman, there was...in
9 Exhibit...let me ask Mr. Hall. In Exhibit B, the total gas
10 estate, it talks about .29% unleased. Am I missing
11 something? Is that...the lease by Consol Energy, is that the
12 one that's there?

13 DON HALL: That's correct.

14 JIM KISER: That's correct.

15 BILL HARRIS: Okay.

16 JIM KISER: That's the only unleased interest.

17 BILL HARRIS: Okay. On the same page.

18 JIM KISER: Unleased to Equitable.

19 BILL HARRIS: Yeah, okay.

20 BENNY WAMPLER: Other questions?

21 (No audible response.)

22 BENNY WAMPLER: Do you have anything further?

23 JIM KISER: Mr. Chairman, we'd ask that the
24

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1 application be approved as submitted.

2 BENNY WAMPLER: Is there a motion?

3 DONALD RATLIFF: Mr. Chairman, I move the adoption
4 of application on docket number twenty-eight.

5 BILL HARRIS: I second.

6 BENNY WAMPLER: Motion and second. Any further
7 discussion?

8 (No audible response.)

9 BENNY WAMPLER: All in favor, signify by saying
10 yes.

11 (All members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. The next item
15 on the agenda is a petition from Equitable Production Company
16 for pooling of a coalbed methane unit under the Nora Coalbed
17 Gas Field order identified as VC-502970, docket number VGOB-
18 02-10/15-1085. We'd ask the parties that wish to address
19 the Board in this matter to come forward at this time.

20 JIM KISER: Mr. Chairman and members of the Board,
21 Jim Kiser on behalf of Equitable Production Company. Our
22 witness will again be Mr. Don Hall. In hindsight, I should
23 have consolidated this one with the earlier well that we did,
24

1 which was---.

2 DON HALL: 97.

3 JIM KISER: Yeah. 502597, docket number -1076.

4 It's the exact same parties that we're pooling here, the
5 B. S. Powers heirs. But having not done that---.

6 BENNY WAMPLER: Well, we'll need to go through it.

7 JIM KISER: ---we'll need to go through it.

8 BENNY WAMPLER: Yes. The record will show there
9 are no others. You may proceed.

10

11 DON HALL

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. KISER:

14 Q. Mr. Hall, if you'd state your name for the
15 Board again, who you're employed by?

16 A. My name is Don Hall. I'm employed by
17 Equitable Production Company as district landman.

18 Q. And you're familiar with Equitable's
19 application seeking a pooling order for EPC well number VC-
20 502970?

21 A. Yes.

22 Q. Dated September the 11th, 2002?

23 A. Yes.

24

--

1 Q. Does Equitable own drilling rights in the
2 unit involved here?

3 A. We do.

4 Q. Now, prior to filing the application, were
5 efforts made to contact each of the respondents and an
6 attempt made to work out an agreement regarding the
7 development of the unit?

8 A. Yes.

9 Q. What is the interest of Equitable within the
10 gas estate in the unit?

11 A. 92.2%.

12 Q. And the interest of Equitable in the coal
13 estate?

14 A. A 100%.

15 Q. And are all the unleased parties set out in
16 Exhibit B?

17 A. They are.

18 Q. And you're familiar the ownership of
19 drilling rights of the parties other than Equitable?

20 A. Yes.

21 Q. And what is the interest in the gas estate
22 that remains unleased?

23 A. .8%.

24

1 Q. .8%. And that, again, represents the
2 interest of the B. S. Powers heirs who we forced pooled
3 earlier today in a previous hearing?

4 A. That's correct.

5 Q. Okay. In your professional opinion, was due
6 diligence exercised to locate each of the respondents---?

7 A. Yes.

8 Q. ---named in Exhibit B? And are the
9 addresses set out in Exhibit B the last known addresses for
10 the respondents?

11 A. Yes.

12 Q. And are you requesting this Board to force
13 pool all the unleased interest listed in Exhibit B?

14 A. Yes.

15 Q. Now, are you familiar with the fair market
16 value of the drilling rights here and in the surrounding
17 area?

18 A. Yes.

19 Q. Could you advise the Board as to what those
20 are?

21 A. A \$5 dollar bonus, a five year term and one-
22 eighth royalty.

23 Q. In your professional opinion, do the terms
24

1 you have just testified to represent the fair market value of
2 and the fair and reasonable compensation to be paid for
3 drilling rights within this unit?

4 A. It does.

5 JIM KISER: Again, Mr. Chairman, regarding the
6 election options and the time afforded the...to the unleased
7 parties...pooled parties to make their elections, we'd ask
8 that the testimony taken in docket number thirteen, 02-09/17-
9 1075, earlier today be incorporated, again.

10 BENNY WAMPLER: That will be incorporated.

11 Q. And in this particular case, we do have a
12 Tract 3, a conflicting claim to the coalbed methane. So, the
13 Board does need to enter or establish an escrow account for
14 that for the proceeds from that particular tract.

15 A. It would be tract 2, yes.

16 Q. Oh, I'm sorry, tract 2. It's tract 3 in the
17 other one. And who should be named the operator under any
18 pooling order?

19 A. Equitable Production Company.

20 Q. Now, what is the total depth of this
21 proposed well?

22 A. 1978 feet.

23 Q. And the estimated reserves of the unit?

24

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1 A. 275,000,000 cubic feet.

2 Q. Are you familiar with the well costs for the
3 proposed well?

4 A. Yes.

5 Q. Was an AFE prepared, signed and submitted to
6 the Board as Exhibit C to the application?

7 A. Yes.

8 Q. Was the AFE prepared by an engineering
9 department knowledgeable in the preparation of AFEs and
10 knowledgeable in regard to well costs in this particular
11 area?

12 A. It was.

13 Q. In your opinion, does it represent a
14 reasonable estimate of the well costs?

15 A. Yes.

16 Q. Could you state for the Board both the dry
17 hole costs and the completed well costs for well number
18 502970?

19 A. The dry hole costs would be \$77,273, and the
20 completed well costs would be \$197,130.

21 Q. Do these costs anticipate a multiple
22 completion?

23 A. They do.

24

1 Q. Does your AFE include a reasonable charge
2 for supervision?

3 A. It does.

4 Q. In your professional opinion, would the
5 granting of this application be in the best interest of
6 conservation, the prevention of waste, and the protection of
7 correlative rights?

8 A. Yes.

9 JIM KISER: Nothing further of this witness at this
10 time, Mr. Chairman.

11 BENNY WAMPLER: Questions from members of the
12 Board?

13 BILL HARRIS: Mr. Chairman, let me ask a question
14 about the Powers family letter that you all gave us earlier.
15 What bearing does this have there? I guess I'm still
16 concerned about their second paragraph about money held in
17 escrow. I don't know if that's about things that you all did
18 or something, But it's sort of confusion. They talk about
19 taking the 60% and 40% and that sort of thing. Could you---?

20 DON HALL: We---.

21 BILL HARRIS: ---elaborate on that?

22 DON HALL: We previously force pooled the Powers
23 family in another well in addition to the two that we done

24

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1 today. Pine Mountain Oil and Gas, who is the...a Pittston
2 Company, which is pretty much one and the same, are the
3 conflicting owners to the Powers family. A lot of cases in
4 recent years, they've gone to the oil and gas owner, they
5 being the coal owner, and said, "let's split this royalty and
6 get it out of escrow." Evidently, they sent the Powers
7 family a letter to broach the subject of splitting the---.

8 BILL HARRIS: Oh. But it was 60/40 rather than
9 50/50?

10 DON HALL: Well, that was---.

11 JIM KISER: That was really their first intent.

12 DON HALL: That was their...I guess they felt they
13 would do the paperwork and they wanted that extra 10%. But I
14 think...since then I think it has basically been 50/50. But
15 they...they obviously offered them a 60/40 split. But
16 that's...you know, that's that company. He just confused it
17 with---.

18 JIM KISER: He confused it with Equitable.

19 BILL HARRIS: Yeah. Well, I mean, the letter said
20 it did serve, but it doesn't have a mailed to address. So, I
21 didn't who---.

22 JIM KISER: It came to me. I guess he got my name
23 from the application. That's why I gave it to you all. I

24

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1 mean, I guess I probably didn't even have to do that.

2 BENNY WAMPLER: He's disclosing it because it

3 came...came as part of the application.

4 BILL HARRIS: Okay. Okay. Okay.

5 BENNY WAMPLER: Is that correct?

6 JIM KISER: Sir?

7 BENNY WAMPLER: You disclosed it to us because it

8 came as part of the---?

9 JIM KISER: It came---.

10 BENNY WAMPLER: ---because of the application?

11 JIM KISER: Because of the application, right. I

12 mean, I guess I probably didn't even have to disclose it to

13 you. But I felt like I should.

14 BENNY WAMPLER: You did the right thing.

15 BILL HARRIS: Okay, thank you.

16 DON HALL: One other item, in the Exhibit B, again,

17 the zip code is wrong. I've done a little research between

18 this hearing and the last hearing and the Clincho zip code is

19 24226. The Lebanon zip code is 24266. So, we put a 6 where

20 the 2 should be. We can correct that. A slip of the finger.

21 BENNY WAMPLER: Other questions?

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further?

24

1 JIM KISER: We'd ask that the application be
2 approved as submitted, Mr. Chairman.

3 BENNY WAMPLER: Is there a motion?

4 DONALD RATLIFF: Mr. Chairman, I'd approve the
5 application---.

6 MASON BRENT: Second.

7 DONALD RATLIFF: ---concerning docket number
8 twenty-nine be approved.

9 BENNY WAMPLER: A motion and second.

10 MASON BRENT: Second.

11 BENNY WAMPLER: Any further discussion?

12 (No audible response.)

13 BENNY WAMPLER: All in favor, signify by saying
14 yes.

15 (All members signify by saying yes.)

16 BENNY WAMPLER: Opposed, say no.

17 (No audible response.)

18 BENNY WAMPLER: You have approval. The next item
19 on the agenda is a petition from Equitable Production Company
20 for pooling of a coalbed methane unit identified as VC-
21 509263, docket number VGOB-02-10/15-1086. We'd ask the
22 parties that wish to address the Board in this matter to come
23 forward at this time. You need to identify yourself first.

24

1 JIM KISER: Oh, I'm sorry.

2 BENNY WAMPLER: Yes. The record will show there
3 are no others. You may proceed.

4

5 DON HALL

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. KISER:

8 Q. Mr. Hall, if you'd state your name for the
9 Board, who you're employed by and in what capacity?

10 A. Don Hall. I'm employed by Equitable
11 Production Company as district landman.

12 Q. And you're familiar with Equitable's
13 application seeking a pooling order for EPC well number VC-
14 509263, which was dated September the 13th, 2002?

15 A. Yes.

16 Q. Is Equitable seeking to force pool the
17 drilling rights underlying the unit as depicted at Exhibit A,
18 that being the plat to the application?

19 A. Yes.

20 Q. Does Equitable own drilling rights in the
21 unit involved here?

22 A. We do.

23 Q. Prior to filing the application, were
24

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1 efforts made to contact each of the various interest owners
2 within the unit and an attempt made to negotiate a voluntary
3 lease?

4 A. It was.

5 Q. Now, what is the interest of Equitable
6 within the gas estate in this unit?

7 A. We have 76.42% leased in the gas estate.

8 Q. And the interest of the coal estate in this
9 unit under lease to Equitable?

10 A. 94.31%.

11 Q. Okay. Now, we have force pooled...we call
12 these wells the Rogers wells and the Rogers cousins and we
13 force pooled them on quite a few occasions. But we do have
14 some new Board members here today. Do you want to explain or
15 do you want me to explain sort of why these numbers are
16 different as far as what's leased and unleased in the various
17 estates?

18 A. As far as the Rogers cousins are concerned,
19 we have an oil and gas lease from the Rogers Bradshaw Trust,
20 which is Lon Rogers. And as far as the gas estate is
21 concerned, they own 75% of the gas and the cousins own 25% of
22 the gas. We have a conventional gas lease from all those
23 parties. In addition, we have a lease covering just the CBM
24

1 from the Lon Rogers/Bradshaw Trust tract. But we don't have
2 a CBM lease...a lease covering just the CBM from the cousins.
3 So, in this case we're force pooling...the reason we're
4 force pooling it is because we don't have the CBM language in
5 our lease for the cousins.

6 Q. So, even though it's possible or...it's
7 possible that the company would assert the...make the
8 assertion that the...all the interests are covered because of
9 the situation where there hasn't been a determination of
10 whether the gas estate owner or the coal estate owner owns
11 the CBM, we've taken a conserve approach and elected to pool
12 the cousins in these instances?

13 A. That's correct. As far as the coal estate,
14 the Rogers Trust No. 1 owns all the coal. So, the
15 cousins...the Rogers cousins don't figure into the coal. Of
16 course, in addition to the Rogers cousins, we're also force
17 pooling Plum Creek Timber Company.

18 Q. Right. In this particular situation. Okay,
19 so at this time, what is the interest of the gas estate that
20 remains unleased?

21 A. 94.31%.

22 Q. No, no, no, remains unleased.

23 A. Oh, remains unleased. 5.69%.

24

--

1 Q. And that's the coal estate. The interest in
2 the gas estate that's unleased---?
3 A. 23.8%.
4 Q. 23.8% of the gas estate---?
5 A. Right.
6 Q. ---is unleased at this time and 5.69% of the
7 coal estate is unleased?
8 A. That's correct.
9 Q. Okay.
10 JIM KISER: It has been a long day, hasn't it?
11 (Laughs.)
12 Q. In your professional opinion, was due
13 diligence exercised to locate each of the respondents named
14 herein?
15 A. Yes.
16 Q. And are the addresses set out in Exhibit B
17 to the application the last known addresses for the
18 respondents?
19 A. Yes.
20 Q. Are you requesting this Board to force pool
21 all unleased interest as they are listed in Exhibit B?
22 A. Yes.
23 Q. Now, are you familiar with the fair market
24

1 value of the drilling rights in the unit here and in the
2 surrounding area?

3 A. Yes.

4 Q. Could you, again, advise the Board as to
5 what those are?

6 A. A \$5 dollar bonus, a five year term and one-
7 eighth royalty.

8 Q. In your professional opinion, do the terms
9 you have just testified to represent the fair market value of
10 and the fair and reasonable compensation to be paid for
11 drilling rights within this unit?

12 A. They do.

13 JIM KISER: Mr. Chairman, at this time, we'd again
14 ask that the previous testimony regarding the elections be
15 incorporated.

16 BENNY WAMPLER: That will be incorporated.

17 Q. Okay, Mr. Hall, we do have, obviously, a
18 conflicting claimant situation on this well. So, we would
19 ask that the Board establish an escrow account?

20 A. That's correct.

21 Q. And who should be named the operator under
22 the pooling order?

23 A. Equitable Production Company.

24

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1 Q. And the proposed total depth for this well?
2 A. 2275 feet.
3 Q. And the estimated reserves for the unit?
4 A. 400,000,000 cubic feet.
5 Q. And has an AFE been reviewed, signed and
6 submitted to the Board as Exhibit C?
7 A. It has.
8 Q. And was it prepared by an engineering
9 department knowledgeable in the preparation of AFEs and
10 knowledgeable in regard to well costs in this area?
11 A. Yes.
12 Q. In your opinion, does it represent a
13 reasonable estimate of the well costs?
14 A. It does.
15 Q. Could you state for the Board both the dry
16 hole costs and completed well costs?
17 A. The dry hole costs would be \$99,459 and the
18 completed well costs would be \$193,654.
19 Q. Do these costs anticipate a multiple
20 completion?
21 A. They do.
22 Q. Does your AFE include a reasonable charge
23 for supervision?
24

1 A. Yes.

2 Q. And in your professional opinion, would the
3 granting of this application be in the best interest of
4 conservation, the prevention of waste, and the protection of
5 correlative rights?

6 A. Yes.

7 JIM KISER: Nothing further of this witness at this
8 time, Mr. Chairman.

9 BENNY WAMPLER: Questions from members of the
10 Board?

11 DONALD RATLIFF: The---.

12 BOB WILSON: Mr. Chairman...excuse me.

13 DONALD RATLIFF: Go ahead. Lebanon's zip code is
14 wrong in this one.

15 DON HALL: That's the problem with computers, it's
16 already...it's in there.

17 BOB WILSON: Mr. Chairman, I believe the Board has
18 a letter from the Rogers Trust I and II stating---.

19 JIM KISER: That's right, there's a royalty split
20 agreement in it.

21 BOB WILSON: ---a blanket split agreement. It does
22 apply to this pooling, does it, specifically on tract 3?

23 JIM KISER: He's right.

24

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1 BENNY WAMPLER: That's Trust II?
2 DON HALL: Tract 1 and 3.
3 JIM KISER: Yeah. It will be 1 and 3.
4 BOB WILSON: Right.
5 JIM KISER: I think we normally cover that in our
6 supplemental order, don't we?
7 BOB WILSON: Yes, I think so. It sets..it was done
8 to the Board in kind of a global letter covering---.
9 JIM KISER: Right.
10 BOB WILSON: ---all of this stuff. I probably need
11 to get it on the record.
12 JIM KISER: Okay. Yes. So, that would be...the
13 royalty split agreement would affect both tracts 1 and 3 in
14 this unit. And we'll...Sharon, we'll get that into the
15 supplemental order.
16 SHARON PIGEON: Okay.
17 BENNY WAMPLER: Other questions?
18 JIM KISER: And you've got a copy of that, don't
19 you?
20 (No audible response.)
21 BENNY WAMPLER: Do you have anything further, Mr.
22 Kiser?
23 JIM KISER: We'd ask that the application be
24

1 approved as submitted, Mr. Chairman.

2 BENNY WAMPLER: Is there a motion?

3 DONALD RATLIFF: I move that the application be

4 approved as submitted in docket thirty.

5 BILL HARRIS: Second.

6 KEN MITCHELL: Second.

7 BENNY WAMPLER: The motion is second. Any further

8 discussion?

9 (No audible response.)

10 BENNY WAMPLER: All in favor, signify by saying

11 yes.

12 (All members signify by saying yes.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval. Thank you.

16 DON HALL: Thank you.

17 BENNY WAMPLER: We're going to take about five

18 minutes. We need to have a little break here.

19 (Break.)

20 BENNY WAMPLER: Okay, we'll reconvene.

21 MASON BRENT: You don't think we're worn down, do

22 you?

23 (Everyone laughs.)

24

1 BENNY WAMPLER: I remember one time we had...not to
2 set the stage for this. But we had a hearing that
3 lasted...well, nobody is here now but me. But, anyway, it
4 lasted until about 10:30 one night. It went all day. But
5 somebody made the mistake about 9:00 thinking that everybody
6 was beat. It was a bad mistake. It went for an hour and a
7 half the last one. That's not to indicate that will happen
8 here. I'm sure it won't.

9 SHARON PIGEON: That's the first time I've heard
10 that story.

11 BENNY WAMPLER: The next item on the agenda is a
12 petition from Penn Virginia Oil and Gas Corporation for
13 pooling of a conventional gas unit identified as Greear #1,
14 docket number VGOB-02-10/15-1087. We'd ask the parties that
15 wish to address the Board in this matter to come forward at
16 this time.

17 TIM SCOTT: Mr. Chairman, I'm Tim Scott. I
18 represent Penn Virginia Oil and Gas. Mr. Proffitt is here
19 and Mr. Waddell. One of things I want to alert the Board to,
20 this morning as I was driving over here, I realized we had
21 another lease in place. So, I'm going to have to do a
22 revised, revised Exhibit B. So, at this point...as soon as I
23 get back to my office, I will provide that to you. It was an
24

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1 undivided interest, a small percentage in the unit of about
2 .17%. But those parties are now leased and I'll provide you
3 with a new exhibit on my return. As indicated, this is for a
4 conventional gas well, and I'd like to call Mr. Doug Proffitt
5 as my first witness.

6 BENNY WAMPLER: Have they been sworn?

7 TIM SCOTT: No, sir, they have not.

8 BENNY WAMPLER: Go ahead and swear both of them.

9 (Witnesses are duly sworn.)

10 TIM SCOTT: Off the record.

11 (Off record.)

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DOUG PROFFITT

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Would you state your name for the record, please?

A. Doug Proffitt.

Q. By whom are you employed?

A. Penn Virginia Oil and Gas Corporation.

Q. In what capacity?

A. I'm a landman.

Q. Mr. Proffitt, would you give us a little history about your background and your work experience, please?

A. I was...been in the business for fifteen years. I'm a C.P.L. registered through the American Association of Professional Landman.

Q. What is a C.P.L. designation?

A. I'm a Certified Professional Landman.

Q. Okay. Are you familiar with Penn Virginia's application now pending before the Board?

A. Yes.

1 Q. Are there any respondents listed as unleased
2 on Exhibit B that should be dismissed from the application?
3 A. Yes. There's four.
4 Q. And who are those parties, please?
5 A. Martha Waddell, Jean Paget, Tony Miller,
6 Phillip J. Suzy.
7 Q. Have you reached voluntary agreements with
8 each of these parties?
9 A. Yes.
10 TIM SCOTT: That would be...that will be revision
11 made to the Exhibit B that I will provide to the Board, Mr.
12 Chairman.
13 BENNY WAMPLER: Okay.
14 Q. Does Penn Virginia have any other portions
15 of the...this unit under lease and does it have drilling
16 rights?
17 A. Yes.
18 Q. And what is that percentage, please?
19 A. 86.45%.
20 Q. Are you familiar with drilling rights of
21 parties other than Penn Virginia in this unit?
22 A. Yes.
23 Q. Are those...excuse me, is that interest
24

1 listed on Exhibit B to the application?

2 A. Yes, it is.

3 Q. Who is the individual that is unleased?

4 A. His name is Richard J. Hunt.

5 Q. Okay. Are there any parties who are unknown
6 and unleased or just unleased?

7 A. Just unleased. There are no unknowns.

8 Q. Okay. Is Mr. Hunt's address set forth on
9 Exhibit B?

10 A. Yes.

11 Q. Can you tell us what type of contacts you've
12 had with Mr. Hunt in attempting to reach an agreement with
13 him?

14 A. I ran his...checked the Courthouse and did
15 his title on 8/1 and I've got phone bills from my cellular
16 phone where I contacted him on...the first time was August
17 the 8th, and you can have these copies if you want them...
18 yes, August the 8th. I contacted him several times by my
19 cell phone and I don't have the records while I was at the
20 office. And I also faxed him a copy of my lease. I've got
21 that where I faxed him, also.

22 Q. And I assume you did not reach an agreement
23 with Mr. Hunt?

24

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1 A. No, he turned it over to his attorney. And
2 I've also go that where his attorney has correspondence
3 coming back. What date---.

4 Q. But we don't have an agreement with him, is
5 that correct?

6 A. No, no.

7 Q. How was Mr. Hunt notified of this hearing?

8 A. By mail, certified mail and it was put in
9 the paper.

10 Q. Was it the Bristol Herald Courier?

11 A. Bristol Herald Courier.

12 Q. Okay. Are you asking the Board to pool this
13 unleased interest as listed on Exhibit B?

14 A. Yes.

15 Q. Are you familiar with compensation received
16 for oil and gas leases in this area and specifically those
17 that would be included or acres that we included within this
18 unit?

19 A. Yes.

20 Q. Could you tell the Board what those terms
21 would be?

22 A. We have a...it's a one year term lease is
23 what we were wanting, a \$5 bonus and \$3 rental.

24

1 Q. Okay.

2 A. A one-eighth royalty.

3 Q. All right.

4 MASON BRENT: Mr. Chairman, if I may.

5 BENNY WAMPLER: Yes.

6 MASON BRENT: I believe that was testimony...
7 testimony of an expert witness. I don't believe...just as a
8 matter of protocol, I don't believe we've accepted him as an
9 expert.

10 TIM SCOTT: Okay, let's do that.

11 BENNY WAMPLER: That's correct. That's a good
12 point.

13 TIM SCOTT: I apologize. Mr. Waddell has testified
14 before, but Mr. Proffitt has not.

15 Q. Okay, Mr. Proffitt, we're going to ask the
16 Board to accept your testimony as an expert in land issues
17 for this particular hearing. Would you tell us a little bit
18 about your educational background?

19 A. Yes. I have a degree at Bluefield State. I
20 worked for Pocahontas Land Corporation for thirteen years in
21 the land department. I managed their oil and gas. They sold
22 their oil and gas, of course, to Penn Virginia and I was kind
23 of like a package deal. I went along with it. Five years

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1 ago, I got certified through the American Association of
2 Professional Landman as a C.P.L. Certified Professional
3 Landman. I have my card if you want to see it. Basically,
4 my duties as landman, managing...still managing Pocahontas
5 properties, which is a half million acres, and also leasing.

6 Q. So, you have involvement both in leasing and
7 in this particular unit, is that correct?

8 A. Yes. Yes.

9 TIM SCOTT: If the Board would like, I can...as a
10 post hearing matter, I can provide the Board with Mr.
11 Proffitt's resume.

12 BENNY WAMPLER: That would be good to get that to
13 Mr. Wilson.

14 TIM SCOTT: Okay. We can do that. Does the Board
15 have any questions of Mr. Proffitt regarding his
16 qualifications?

17 (No audible response.)

18 TIM SCOTT: Then we would offer---.

19 BENNY WAMPLER: We'd accept him.

20 TIM SCOTT: Okay, thank you.

21 BENNY WAMPLER: Thank you, Mr. Brent.

22 TIM SCOTT: Thank you very much.

23 Q. So, you did indicate, or you testified
24

1 earlier that you have had experience in this area of the
2 Commonwealth of Virginia as well as other others---?

3 A. Yes.

4 Q. ---acquiring leases?

5 A. Yes, I've acquired approximately 3500 acres
6 or something like that in the...near the...in Washington and
7 Russell County.

8 Q. Okay. So, you have worked in this area
9 (inaudible)?

10 A. Right. Yes.

11 Q. Do the terms that you have just testified to
12 represent a reasonable market value for leases in this area?

13 A. Yes.

14 Q. As a matter with regard to any order entered
15 by the Board, are you asking the Board to grant to Mr. Hunt
16 as a respondent the three election options under Section
17 361.21, being participation, a cash bonus of \$5 per net
18 mineral acre, \$3 rental, a one year term plus a eighth of
19 eight/eighths royalty, or to be a carried interest owner?

20 A. Yes.

21 Q. Do you recommend that the order provide for
22 elections by the respondent to be in writing and sent to Penn
23 Virginia Oil and Gas Corporation at 2550 East Stone Drive,

24

--

1 Kingsport, Tennessee 37660, Attention: James T. Harsha?

2 A. Yes.

3 Q. So, all communications about the order be

4 sent to that address?

5 A. Yes, it should.

6 Q. And who should be designated as the operator

7 under any pooling order?

8 A. Penn Virginia Oil and Gas.

9 TIM SCOTT: Okay. That's all I have for this

10 witness.

11 BENNY WAMPLER: Questions from members of the

12 Board?

13 (No audible response.)

14 BENNY WAMPLER: Call your next witness.

15 TIM SCOTT: Okay.

16

17 RICHARD WADDELL

18 having been duly sworn, was examined and testified as

19 follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SCOTT:

22 Q. Would you state your name, please?

23 A. Yes, Richard Waddell.

24

1 Q. Mr. Waddell, by whom are you employed?
2 A. Penn Virginia Oil and Gas Corporation as
3 Senior Petroleum Engineer.
4 Q. And you have testified before?
5 A. Yes.
6 Q. Okay. Are you familiar with the pooling
7 application now before the Board for the Greear #1?
8 A. Yes.
9 Q. In what aspects?
10 A. Well, I prepared the cost AFE, I've talked
11 with the geologist working up the prospect and will be
12 involved with the design of the well.
13 Q. So, you all signatory to the AFE, is that
14 correct?
15 A. Yes. That's correct.
16 Q. What's the total depth of this proposed
17 well?
18 A. 4,750 feet.
19 Q. Are you requesting the force pooling of
20 conventional gas reserves to the designated formations not
21 inclusive of coal formations?
22 A. That's correct.
23 Q. What are the estimated reserves of this
24

1 particular unit?

2 A. A half billion cubic feet.

3 Q. And you did testify earlier that you
4 prepared the AFE for this proposed well, is that correct?

5 A. Yes.

6 Q. Did you sign the AFE and submit it to the
7 Board?

8 A. Yes.

9 Q. In your opinion, does it represent a
10 reasonable estimate of the well costs under this plan of
11 development?

12 A. Yes.

13 Q. Could you tell the Board what the dry hole
14 costs for this particular AFE?

15 A. Yes, the dry hole estimate are a \$183,350.

16 Q. And what's the completed costs?

17 A. \$339,950.

18 Q. Now, do we have a provision in the AFE for
19 supervision costs?

20 A. Yes, we do.

21 Q. Okay. And do you...is that a reasonable
22 cost?

23 A. Yes.

24

--

1 Q. Okay. Will the approval and grant of this
2 application be in the best interest of conservation and the
3 protection of correlative rights and prevention of waste?

4 A. Yes.

5 TIM SCOTT: That's all the questions I have for Mr.
6 Waddell.

7 BENNY WAMPLER: Questions from members of the
8 Board?

9 (No audible response.)

10 DOUG PROFFITT: I'd like to change on the degree
11 thing at Bluefield State. I have not yet completed that.
12 Okay, that's still in the works. Okay. But that...like I
13 say, it is in the works. Just for the record.

14 TIM SCOTT: Thank you.

15 BENNY WAMPLER: Thank you. You didn't really go
16 through the percentage unleashed.

17 TIM SCOTT: Okay.

18 BENNY WAMPLER: Is it 13.55%?

19 TIM SCOTT: Yes, sir. That's---.

20 BENNY WAMPLER: Just the Hunt percentage?

21 DOUG PROFFITT: Yes...yes, it is.

22 BENNY WAMPLER: Okay. Other questions?

23 KEN MITCHELL: Mr. Chairman.

24

--

1 BENNY WAMPLER: Mr. Mitchell.

2 KEN MITCHELL: When I look...when I look at the
3 Affidavit of Publication, it wasn't filled out.

4 TIM SCOTT: It has been submitted.

5 KEN MITCHELL: Okay.

6 TIM SCOTT: It's been submitted to Mr. Wilson.

7 KEN MITCHELL: As long as Bob has a copy, that's
8 fine.

9 TIM SCOTT: Yes, sir.

10 BOB WILSON: We have one in file. Thank you.

11 KEN MITCHELL: That's fine.

12 MASON BRENT: Since we're picking on details.
13 And this is really a question, on Exhibit B, on page two of
14 two, Phillip J. Suzy, individually and Trustee---?

15 TIM SCOTT: Yes, sir.

16 MASON BRENT: ---blah, blah, blah, do you think
17 that's really Sand Juan drive or S-A-N Juan drive?

18 TIM SCOTT: Mr. Suzy's cousin gave me that address
19 and it's probably San Juan drive---.

20 MASON BRENT: I would think so.

21 TIM SCOTT: ----which I'll fix that. Unless
22 there's some new town in Puerto Rico that I'm unaware of.

23 (Laugh.)

24

1 TIM SCOTT: So, we'll fix that when I submit the
2 new...a new Exhibit B.

3 BENNY WAMPLER: Do you have---?

4 TIM SCOTT: It is the correct zip code, however.
5 (Laughs.)

6 MASON BRENT: I'm not going to challenge that.

7 BENNY WAMPLER: Do you have anything further?

8 TIM SCOTT: No, sir. I just ask that the
9 application be approved.

10 BENNY WAMPLER: Is there a motion?

11 KEN MITCHELL: Motion to approve, Mr. Chairman, on
12 agenda item number thirty-one.

13 BILL HARRIS: Second.

14 BENNY WAMPLER: Motion and second. Any further
15 discussion?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying
18 yes.

19 (All members signify by saying yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response.)

22 BENNY WAMPLER: You have approval. Thank you.

23 TIM SCOTT: Thank you.

24

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1 BENNY WAMPLER: The next item on the agenda is a
2 petition from Dart Oil and Gas Corporation for pooling of a
3 conventional gas unit identified as Harmon #1, docket number
4 VGOB-02-10/15-1088. We'd ask the parties that wish to
5 address the Board in this matter to come forward at this
6 time.

7 TIM SCOTT: Mr. Chairman, I'm Tim Scott
8 representing Dart Oil and Gas Corporation and we would ask
9 that that petition be dismissed, our application. We have
10 reached a voluntary agreement with all the parties listed in
11 the application.

12 BENNY WAMPLER: We are pleased to do that.
13 (Laughs.)

14 BENNY WAMPLER: Very good.

15 TIM SCOTT: I knew you'd be happy.

16 BENNY WAMPLER: And, Mr. Wilson, the last item on
17 the agenda is quarterly report from the Board escrow account.
18 Thank you, gentleman.

19 BOB WILSON: If you would pass that down...take one
20 and pass it down, please, sir.

21 (Report distributed.)

22 BOB WILSON: Okay, we have a few things to talk
23 about with the escrow account this time. I'm passing around
24

1 now the quarterly report as of the end of September at which
2 time the account balance was \$6,682,158.61. During the
3 quarter, we received a total of \$208,100.35 in deposits and
4 \$25,537.71 in interest was posted to the account. The bank
5 charges for one six month period were deducted during the
6 last quarter. As you'll recall from the last reports, they
7 are due \$5,000 per month. They only deduct this from the
8 account twice a year, which we don't complain about. It was
9 deducted in the last quarter and is reflected in this
10 accounting at this time. As you can see, our interest rates
11 continue to steadily decline, like all others. Started the
12 quarter at 1.71% and ended at 1.62% on the account.

13 And that brings us to the next thing, which we have
14 discussed, of course, in the past. Let me see here. Pass
15 those down, please, sir.

16 (Passes out information.)

17 We have talked about various possibilities of
18 gaining more return on this account. I have talked to the
19 bank on a number of occasions about this. I think you all
20 are aware of the restraints that we have by now. Some of the
21 new members may or may not be aware of the restraints on
22 State investments. Of course, we have to preserve principal
23 and we have to, in this account, preserve a certain amount of
24

1 liquidity for payouts. This graph shows basically what
2 activity we have had on this account and I apologize, I don't
3 know exactly what the starting point of this is. It ends of
4 the quarter before last. But as you can see, the account is
5 growing considerably faster than the cumulative disbursements
6 are growing. That being the lower curve. If you'll notice,
7 just as kind of a side here, the cumulative amount of the
8 escrow account and the rate of growth have actually kind of
9 flattened off there for a while. This pretty much reflects
10 the flattening off of production in the State right now. If
11 you'll chart our coalbed methane production, it has been flat
12 for the last three years. I think that's probably what's
13 showing the lowering of the rate of increase. We've had one
14 major payout several years ago, which is the big jump in the
15 lower curve there. Other than that, it has just been a few
16 small payouts here and there.

17 There was some question asked earlier about this
18 recent Court decision. We have gotten a number of telephone
19 calls from people who think that this is turning their money
20 loose. We have tried to explain to them that particular
21 decision only applied to that...those particular deeds and
22 leases. However, from talking to a number of people of land
23 owners and some attorneys who have called, it has sparked a
24

1 considerable amount of interest in getting into this escrow
2 account. So, if we decide to go a different route in order
3 to attempt to get a better return on this, we need to take
4 that into consideration when we decide the amount of
5 liquidity we wish to keep.

6 The other aspect of this, I talked to...have talked
7 a number of times to Patrick Dixon, who is the Wachovia/First
8 Union Government Affairs representative. He's up in Roanoke
9 and he's in charge of all government investments in Virginia.
10 He has basically said that anything with less than a two
11 year term isn't going to give us an appreciable increase in
12 the amount of money we're earning. He gave me some ranges of
13 examples here most of which are very much in line with what
14 we're getting now at 1.62%. The others were 1.64 and 1.68
15 and then two year treasury notes at 2.09. He says at this
16 time, these rates are not changing a lot for less than a two
17 year term. For one thing, investors are afraid of it because
18 it's not an appreciable increase when you go beyond six
19 months up to two years. You're tying the money up.

20 Everybody thinks it has got to turn around and go the other
21 way. So, nobody wants to tie that money up for an extended
22 period of time to get a very, very small extra return. He
23 indicates that for up to a two year term, around 2% is about

24

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1 the maximum we can hope for and that's probably for an
2 instrument that could be called. And, again, I don't think
3 we want to get into anything that we have to manage. It
4 hasn't to be something that it will stay there and it will do
5 its bit and get the money back for us.

6 I don't see that the information that I've gotten
7 since the last time we talked about it is sufficiently
8 enlightening, significantly enlightening over what we've at
9 before.

10 If we want to go for these increased returns, we
11 have to decide how or if we want to partition the account.
12 We have to decide how much we wish to keep liquid. We'd also
13 have the choice, of course, of going for a longer term
14 instrument. But, of course, then we take the chance that if
15 some major decisions come down or if we get a major rate on
16 the account from one or another, legally, obviously, that we
17 might get caught short on that. So, it's a matter of which
18 way the Board wants to go on that.

19 We can investigate returns on instruments beyond
20 two years. We can partition the account and try to take
21 advantage of a small increase on a major amount of money or
22 we can stand pat.

23 BENNY WAMPLER: Less than 1/2% for two years

24

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1 doesn't---.

2 MASON BRENT: Yeah, that's...yeah. Can he provide
3 you or has he provided you some kind of a portfolio profile
4 for the other governmental agencies or groups that he handles
5 accounts for?

6 BOB WILSON: No.

7 MASON BRENT: So we can see how they disburse their
8 money throughout their investment.

9 BOB WILSON: He hasn't. I haven't asked that. No,
10 but he has some...he...just from conversations, I gather that
11 the accounts that they handle are basically of two different
12 types. Some government entities have managed accounts. They
13 have a money manager that manages this day to day account and
14 tells the bank what to do with it on a daily basis. The
15 other side are pretty much the same thing that we are where
16 you put your money in and protect your principal and take
17 what you can get. But now, no, I have not gotten any kind of
18 a run down on his total accounts...account availabilities.

19 BENNY WAMPLER: Do you think that would be of
20 interest to have before we make a decision just to see---?

21 MASON BRENT: Well, just based on what he's saying,
22 it probably isn't a whole lot of difference unless you get
23 into---.

24

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1 BENNY WAMPLER: I mean, based on what he said, it
2 doesn't sound like it.

3 MASON BRENT: Unless you get on the managed side
4 and we've already said we're not going to---.

5 BENNY WAMPLER: Yeah, managed side---.

6 MASON BRENT: We're not going to get involved in
7 that.

8 BENNY WAMPLER: Yeah, it's too risky for what we
9 do. I mean, you're talking about less than---.

10 BOB WILSON: Yeah, I think---.

11 BENNY WAMPLER: ---a half a percent going two
12 years.

13 BOB WILSON: If you get on the managed side, you're
14 going to have to hire a manager.

15 MASON BRENT: For this relatively small amount of
16 money, I don't think we can hire a manager.

17 BENNY WAMPLER: And to tie the money up two years
18 to get less than a half percent...I'm not trying to sway the
19 Board. But, I mean, it doesn't seem to me at the present
20 time that that's worth...I mean, it seem...it kind of seems
21 to me it would be smarter to take the risk that it would
22 change---.

23 MASON BRENT: Yeah.

24

1 BENNY WAMPLER: ---than it is to go for the two
2 years at 2%.

3 MASON BRENT: I wouldn't want to be the one that
4 decided to tie up any amount for two years and then a year
5 and a half from now we find interest rates are back up to---.

6 BENNY WAMPLER: That's what I'm saying.

7 MASON BRENT: ---4 or 5%.

8 BENNY WAMPLER: That's...that's...yeah, that's, I
9 think, the risk. If interest rates were more than 2%
10 difference at two years, I think you could have some
11 justification for that. But less than half a...less than
12 half a percent really is what we're talking about.

13 BOB WILSON: Just, again, to pass along, I asked
14 Mr. Dixon what his recommendation as a banker would be in a
15 situation like this. He said that if it was his account with
16 these concerns or conditions he would do exactly what you
17 just said. Standpat and...unless we wanted to go for a
18 super long term commitment and get an appreciably better
19 rate. His comment on that was, you're probably going to lose
20 on that too.

21 BENNY WAMPLER: We're getting more and more split
22 agreements.

23 BOB WILSON: Rates go up.

24

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1 BENNY WAMPLER: I mean---.

2 MASON BRENT: I was going to say, for the benefit
3 of the new members, just in the last, you know, six months,
4 we've seen an appreciable increase, you know, like today in
5 disbursements.

6 BENNY WAMPLER: Which we've encouraged people to
7 get together and work out agreements where they can and get
8 their money.

9 KEN MITCHELL: Mr. Chairman, just---.

10 BENNY WAMPLER: Mr. Mitchell.

11

12 KEN MITCHELL: ---a personal observation, and I'm
13 not...I'm not down grading First Union or Wachovia or anyone
14 else, but when you're dealing with a bank that has 6.7
15 million of the Board's money, I think...I think any...not all
16 advice, but, I think, a lot of the advice may be self
17 serving. They want our 6.7 million dollars and they're
18 making car loans and house loans and none of their house
19 loans I know of are going for 1.6%. If so, please tell me
20 and I'll...golly, I'll darn sure contact them. I'd love to
21 have a house loan at 1.6%. I think if you're dealing with
22 the bank, I think...and you're...you know, we're dealing with
23 their trust department and we're dealing with their money

24

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1 managers. You know, I think...I think if you talk to some of
2 the counties...if you talk to your local county treasurer or
3 someone that handles the money, I think...I think all of us
4 collectively could come up with some better information
5 that...because...you know, now, I'm just going to talk about
6 my county. We buy and sell by the day, by the week, by the
7 month, 90 days, 20 days. We buy it on Monday and sell it on
8 Tuesday, you know, depending on what rates we can get. I
9 don't...and here again, I'm not...I'm not suggesting a
10 professional money manager that we're going to have to pay
11 \$60,000 a year to manage this money. I'm not saying that by
12 any means. I'm just, you know, what our treasurer suggested
13 to me is that we do a staggered investment. Don't take all
14 6.7 million and invest it at once at one rate of 2%. What
15 she says, a lot of our extra money, they do...they'll invest
16 like a million dollars for six months, you know. They're
17 going to invest a million dollars for one year and every six
18 months a million dollars comes due, you know, that would
19 replenish any outgoing of money or out paying of money. But
20 they do a lot of the larger sums on staggered investments.
21 Not a...not a flat...we've got to put it in for two years and
22 leave it there for two years. They stagger them over a
23 period of six month increments. I think it's very workable.

24

--

1 I don't think it would require a lot of management. But
2 I---.

3 MASON BRENT: What kind of---?

4 BOB WILSON: That sort of scenario was what we
5 really actually started from. Here was a possibility of
6 doing staggered investments over with relatively short term
7 commitments.

8 KEN MITCHELL: Yeah. I mean, we're...I mean...and
9 I'll just end up by saying, we're paying these people \$5,000
10 a month. You know, that is not bad money if you multiply it
11 5 times 12. Well, that figures up 60. So, we're paying them
12 \$60,000 for their money manager who is telling us to stay
13 pat.

14 BILL HARRIS: Keep it here.

15 KEN MITCHELL: You know, I can...I can go to my
16 next door neighbor and he'll tell me to stay pat and don't
17 buy any stocks and don't sell any stocks, you know. But
18 we're paying them \$60,000 for the best possible advice and
19 I'm just not sure we're getting it. That's just my personal
20 grumble opinion.

21 MASON BRENT: I think we need to clear that up
22 because we're not just looking at First Union to manage this
23 6,000,0000. That \$5,000 a month is not just to manage this
24

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1 money. They have to manage all of these---.

2 BENNY WAMPLER: Those sub accounts.

3 MASON BRENT: ---escrow accounts.

4 KEN MITCHELL: Right, and I---.

5 MASON BRENT: And that is---.

6 KEN MITCHELL: ---don't disagree.

7 MASON BRENT: When we...when we put this thing out
8 for bid a few years ago to find a new bank to handle this---.

9 KEN MITCHELL: Uh-huh. Uh-huh.

10 MASON BRENT: You know, we're not a prime catch.
11 There's not many banks out there that want to fool with this
12 kind of thing. So, we have to be a little careful.

13 KEN MITCHELL: Yeah. What I'm saying, I don't see
14 many banks that would turn down \$7,000,000.

15 MASON BRENT: Well, I do---.

16 BENNY WAMPLER: Yeah, several of them did.

17 MASON BRENT: ---depending on what they've got to
18 do to get it.

19 BENNY WAMPLER: Several of them did because they do
20 have to run those spreadsheets. They do have to take that
21 money and open up an account. I mean, they inherited---.

22 MASON BRENT: Some people just didn't want to fool
23 with it.

24

1 BENNY WAMPLER: I'm not trying to defend them. I'm
2 just telling you that when we put it out for...we weren't
3 overwhelmed with responses, were we. We had one, one
4 response.

5 MASON BRENT: Yeah. See, we---.

6 BENNY WAMPLER: Now, it's growing now. But, I
7 mean, even at that we had over 4,000,000 when we put it out.
8 We had one response. So, I mean, what we're saying they
9 need to do to this is a burden to them that a lot don't want.

10 BOB WILSON: If I could add a little grist to that
11 mill too, West Virginia just entered into a situation like
12 we're in here and has just started establishing their escrow
13 account. They basically went to First Union and begged them
14 to take their account and handle it the same way they're
15 handling ours because they could get no interest in anybody
16 else that would handle it as well. It's a fair amount of
17 aggravation there.

18 KEN MITCHELL: I'm just...I'm just concerned that
19 banks basically are self serving.

20 BENNY WAMPLER: Oh, sure.

21 KEN MITCHELL: And I...and I...you know, I...you
22 know, I don't see very many bankers in church. So, I---.

23 MASON BRENT: Well, who's---?
24
~

1 (Laughs.)

2 MASON BRENT: Name me a...name me a financial
3 institution that's not self serving.

4 (Laughs.)

5 KEN MITCHELL: Well, but I'm saying...but I'm
6 saying they're self serving, but yet they're providing us a
7 lot of advice too. So, I just...I'm just concerned about
8 that.

9 BILL HARRIS: Especially when they already have the
10 money.

11 (Laughs.)

12 BILL HARRIS: It's easy for them to say, oh, just
13 keep it here.

14 KEN MITCHELL: That's true.

15 BILL HARRIS: Well, do we need to vote on something
16 or what?

17 BENNY WAMPLER: Well, you know, I don't know that
18 we need to vote. I think, you know, the question was for Bob
19 to report back to us what he found out. He's done that. I
20 guess, it's up to us to decide do we want to change how we're
21 managing the money. Do we want to invest, I guess, more
22 specifically in a longer term for the amount of money he said
23 or, you know, do we need to go back out and try to do some
24

--

1 more homework? You suggested one thing, chat with the
2 treasurers and see what rate their negotiating. It'd only
3 probably be appropriate for those that are negotiating with
4 First Union or Wachovia, you know---.

5 MASON BRENT: Yeah.

6 BENNY WAMPLER: ---to get a direct comparison. If
7 they're getting a better rate, we'd say well what about this?
8 You know, they're---.

9 MASON BRENT: You have to be careful that you're
10 comparing apples and apples here.

11 BENNY WAMPLER: Yeah. Yeah, because some of the
12 banks may do that not knowing...you know, just thinking that
13 they're dealing with a \$6,000,000 pot of money period and not
14 the work that goes along with it. That's the different part
15 of it. But if...you know, I don't think it's a problem to
16 try and check with some treasures and see what they're...what
17 they're able to get out there, you know, in term. I mean, I
18 agree with you, staggered accounts...I think all of us agree
19 with you, staggered accounts we'd talk about that would be
20 the way to go if we had the rates that justified it. Right
21 now I'm not personally and I'm not trying to sway the Board
22 at all. I'm just commenting that personally going to 2% is
23 not worth...not worth the tying up for two years. I think

24

--

1 it's a higher risk to tie it for that term---.

2 MASON BRENT: Yeah. Yeah.

3 BENNY WAMPLER: ---then it is to leave it alone and
4 run a...you run a better possibility, I believe, on the part
5 of our...of the people we're trying to serve here by managing
6 this by waiting based on what---.

7 MASON BRENT: Yeah. I think what Ken has mentioned
8 is not a two year...I'm not hearing Ken say---.

9 BENNY WAMPLER: No.

10 MASON BRENT: ---you know, we need a two year
11 instrument. He's saying six months or twelve months. I'd be
12 extremely interested in finding a six or twelve month
13 instrument that would yield considerably better than---.

14 BENNY WAMPLER: Right.

15 MASON BRENT: ---what we've got here now.

16 BENNY WAMPLER: You---.

17 MASON BRENT: Even Stafford County.

18 BILL HARRIS: Yeah, that new...that new bank in Big
19 Stone that's now on the corner of where Wise County Bank used
20 to be is...I know they have six months CDs that were 4%. Now,
21 they're at 3½%. But, you know, with that something that...
22 you talked about an instrument. I don't know if they even
23 do...if we took 2,000,000 and put it in for six months. But
24

1 then the money manager would be the person to do that. I
2 mean, I don't think we could take money out of the bank to do
3 that. But I don't know how appropriate something like that
4 would be. But 3½% is what...it will probably stay that, I
5 guess, for the month and then go down another half percent or
6 something.

7 BENNY WAMPLER: Here, again, as Bob said, we're
8 regulated too---.

9 BILL HARRIS: Yes.

10 BENNY WAMPLER: ---on what those government funds
11 can go into. So, that ties it up, too. It starts
12 restricting.

13 BOB WILSON: We, of course, don't have to worry
14 about the \$100,000 deposit insurance and that sort of thing.
15 Our entire six and a half million is insured and this sort
16 of thing. So, they're a number of differences there that
17 don't apply to the...what the new bank on the corner says
18 they're offering.

19 BILL HARRIS: Yes. Yeah.

20 MASON BRENT: And that's what I said, it's so
21 important that we make sure we're comparing apples to apples.
22 We're kind of a different breed here.

23 BENNY WAMPLER: So, should we check with the
24

1 treasurers you think---?

2 KEN MITCHELL: I'd like---.

3 BENNY WAMPLER: ---and invite individuals here on
4 the Board to do that as well---?

5 KEN MITCHELL: Uh-huh.

6 BENNY WAMPLER: ---you know, to see what...what's
7 out there? You know, what rates we think we could get. Bob,
8 you can check a couple around here too---.

9 BOB WILSON: Sure.

10 BENNY WAMPLER: ---and just see. Does that make
11 sense to do and report back?

12 KEN MITCHELL: I'd like...everyone maybe bring some
13 comment information and especially for the two new members.
14 I mean, they were thrown into it today. I realize they have
15 previous experience. But I think if we bring back a better
16 compilation of everyone's advice, I think we can make a
17 better decision.

18 BENNY WAMPLER: Sounds good.

19 BENNY WAMPLER: Do you have anything else, Bob? I
20 have the minutes.

21 BOB WILSON: Yeah. Let me...let me give you a
22 couple comments about the escrow agent just to keep you
23 informed. I don't think that this is a major problem, but I
24

1 wanted to let you know that we have had a bit of a problem.

2 Earlier Anita Tester with PGP group testified that

3 she was unable to finish her accounting this week. What she

4 didn't tell you was that part of that had to do with the fact

5 that the bank got back to her Friday...last Friday at, I

6 think she said, something around 5:30 in the afternoon and

7 that was only after multiple calls from our office, which is

8 a bad sign because we went through this once before for you

9 all that have been here for a while remember. We've had

10 some...had some problems with their responsiveness before.

11 They had...the company had sent the bank an email a

12 significant time back and laid out the accounts and told...

13 they have told them that they needed the balances on them.

14 Then last week, they always copy me on these emails so that

15 ...I've asked for that so we know that the communications are

16 being established. I called Anita and asked her if she had

17 heard from the bank and at that time, she had not. I called

18 the bank, I said, you need to get on this right now. We have

19 to handle this next week. I was off Friday. Apparently,

20 Friday afternoon, Anita called the office and told our staff

21 there that she still hadn't heard anything. Diane in the

22 office called the bank and the bank finally did it then and

23 got it to her. However, it wasn't a balance. The bank was

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1 closed yesterday. So, they couldn't do anything about it at
2 that late hour. We are going to jump on this. This is a
3 major lapse.

4 MASON BRENT: Why don't we get Mr. Don Ballinghoff,
5 is that his name?

6 BOB WILSON: Ballinghoff.

7 BENNY WAMPLER: Ballinghoff.

8 MASON BRENT: Ballinghoff, from up in Philadelphia
9 back down here.

10 BENNY WAMPLER: We can do that. The reason we have
11 avoided that is, of course, we have to pay for his way when
12 he comes down. So, we've been able...when things are going
13 smoothly---.

14 MASON BRENT: We can make...we can make it the
15 worst trip of his life.

16 (Everyone laughs.)

17 BENNY WAMPLER: Make him wish he hadn't got paid.

18 BOB WILSON: Can I use that as a threat?

19 MASON BRENT: No.

20 (Everyone laughs.)

21 BOB WILSON: But like I said, I don't think it's a
22 problem that can't be taken care of very quickly. As I have
23 told you in the past in a couple of these reports, there are
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1 some little minor problems in the account that we have been
2 trying to get fixed over time. Early on we were going to set
3 the account up such that all of the sub account information
4 ...in other words, each tract could be broken down on that
5 sub account under that VGOB number such that any individual
6 could call in and get their tract total or their---

7 MASON BRENT: Right.

8 BOB WILSON: ---interest. That very quickly was
9 shown to be totally unfeasible because some of these you've
10 seen today. Some of them would have literally hundreds of
11 names under a tenth of an acre or something like this and it
12 would just get...be unmanageable in a big hurry. Plus the
13 checks don't always come in such that they're easy to do. So
14 we pretty much abandoned that idea a while back. However,
15 some of those accounts have been broken down for a couple of
16 months, I think three months, not long after First Union got
17 the account. We've gone back to those. We're having them
18 fold that money back in as of the date that it was taken out
19 of the main account. This isn't causing any problem until we
20 get to the point of somebody requesting a disbursement at
21 that point, it could cause problems. But those were taken
22 care of. I don't see that as a problem. The main thing is I
23 think we have to address is lack of response immediately and

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1 make sure it doesn't happen again. We've got a number of
2 payouts coming up next month. We'll see how that works out.
3 If we continue to have problems, I would not disagree with
4 you. It would be a good idea to have them sit in front of us
5 at next quarter's---.

6 BENNY WAMPLER: I'd put him on alert too and just
7 let him know you've had trouble and that the Board's very
8 concerned about that.

9 BOB WILSON: Okay.

10 BENNY WAMPLER: If we continue to have it, we're
11 going to want to call him before the Board and talk to him
12 about it.

13 BOB WILSON: I'd like to very quickly with one
14 other item relative to this, traditionally, probably just
15 because we've always done it that way, we have set up the
16 individual escrow sub accounts when the supplemental order
17 comes in. In other words, when the people have made their
18 elections, they...we then send that supplemental order to the
19 bank and have them establish the escrow account. This has
20 caused a delay, and in some instances, money is getting there
21 before that supplemental has made its round and gotten back
22 to the bank. The checks have to be returned and then sent...
23 what we would like to do is establish the account with the

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1 initial order. Actually, the order states that the account
2 will be established. The trade off is that occasionally
3 we'll have an account that will...everybody will lease and
4 we'll have to withdraw that. But that's a fairly rare
5 happening. Unless somebody knows some reason not to, what I
6 would like to do is to allow us to open that account on the
7 original order rather than wait for the supplemental. That
8 way as soon as that first check lands there, there will be a
9 slot for it to go into. We won't have to get into this
10 sending money back and forth.

11 BENNY WAMPLER: Supplemental comes that sets up sub
12 accounts?

13 BOB WILSON: Yes. Again, because we're not setting
14 up the sub account by tract.

15 BENNY WAMPLER: Right.

16 BOB WILSON: That what we thought initially was
17 going to happen. Like I say, it's not feasible.

18 BENNY WAMPLER: I don't see a problem with that
19 since we're not going to sub, I think we're okay. Does that
20 finish you?

21 BOB WILSON: That's it for me.

22 BENNY WAMPLER: I've got one other thing. Just
23 real quick. We're mandated...well, he's going to hand this
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1 out. So, let me---.

2 (Minutes distributed.)

3 BENNY WAMPLER: We're required under the new
4 guidelines that went into effect...the new requirements that
5 went into effect July the 1st to notice the public on
6 the...of course, and we always do, on what we're here for and
7 what we're going to discuss, etc. But we're required to do
8 minutes. What we have been doing is...you know, Bob provides
9 us the little summary of the cases and he's basically doing
10 the summary, plus outcome. The following meetings we're
11 going to have to come to you and ask you, that's what I'm
12 doing now, to approve those minutes.

13 First, I guess I'd say, does that seem reasonable
14 to you that we'd just take what he's already done and then he
15 adds the outcome of each one?

16 BILL HARRIS: Yeah, just modify the wording or
17 something?

18 BENNY WAMPLER: To minimize it, right.

19 BILL HARRIS: It makes sense.

20 BENNY WAMPLER: To minimize it.

21 BOB WILSON: Mr. Chairman, I might point out as
22 well that we will routinely send these minutes out to you
23 with your package for the following so that you can see---.

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1 DONALD RATLIFF: Previously.

2 BOB WILSON: ---it prior to the hearing.

3 BENNY WAMPLER: Right.

4 MASON BRENT: There were only a couple of us here,
5 I think.

6 BOB WILSON: That's right.

7 BENNY WAMPLER: Right. But this is...the way we
8 set it up was the agenda, just like he's doing and the
9 summary of it that he has done and then he has added
10 in...Bob, you correct me if I'm misstating anything, he's
11 added in the outcome of the action that we took and that made
12 sense. I think it gives the public, you know, without trying
13 to go through the verbatim record and try to do minutes on
14 detail, I think this tells them a lot more. This is what we
15 heard and that was the outcome. Does that make sense to
16 everyone?

17 KEN MITCHELL: Would it be possible...and I'm not
18 trying to give poor Bob more work, would it be possible to
19 put this on the Internet? Put it under...as minutes of an
20 approved meeting where people could go and---.

21 BOB WILSON: That's actually where it's destined.
22 We post it on our site and it goes on the Governor's Town
23 Hall site.

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1 BENNY WAMPLER: Yeah. That's where it heads.
2 KEN MITCHELL: Okay. Okay. Good. Good.
3 BENNY WAMPLER: So, I'm asking for approval of
4 these minutes for August.
5 MASON BRENT: Mr. Chairman, I'd move that we
6 approve the minutes as distributed for August.
7 KEN MITCHELL: Second.
8 BENNY WAMPLER: Second. Any further discussion?
9 (No audible response.)
10 BENNY WAMPLER: All in favor, signify by saying
11 yes.
12 (All members signify by saying yes.)
13 BENNY WAMPLER: Opposed, say no.
14 (No audible response.)
15 BENNY WAMPLER: You have approval. Anything
16 further?
17 (No audible response.)
18 BENNY WAMPLER: Thank you for your time. I
19 appreciate it. I apologize for the length of the agenda. But
20 I think now with a full Board here we should be able to
21 minimize the carry over from now on. Thank you so much.

22

23 STATE OF VIRGINIA,

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1 COUNTY OF BUCHANAN, to-wit:

2 I, SONYA MICHELLE BROWN, Court Reporter and Notary
3 Public for the State of Virginia, do hereby certify that the
4 foregoing hearing was recorded by me on a tape recording
5 machine and later transcribed by me personally.

6 Given under my hand and seal on this the 4th day of
7 November, 2002.

8 NOTARY PUBLIC

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10 My commission expires: August 31, 2005.

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